



CHEMONICS INTERNATIONAL INC.

**Electronic Document Submission Title Page**

Contract No.:	278-C-00-02-00210-00
Contractor Name:	Chemonics International, Inc.
USAID Cognizant Technical Office:	Office of Economic Opportunities USAID Jordan
Date of Product/Report:	November 15, 2005
Product/Document Title:	NASD Market Surveillance Manual
Author's Name:	Michael Kulczak and Steven Polansky of National Association of Securities Dealers (NASD)
Activity Title and Number:	Achievement of Market-Friendly Initiatives and Results Program (AMIR 2.0 Program)  F/NASD-Preparing Market Surveillance Manual, FMD Component, Work Plan No. 621.03
Name and Version of Application Software Used to Create the File:	MS Word 2002 MS Excel
Format of Graphic and/or Image File:	N/A
Other Information:	N/A

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Document Title:	<b>NASD Market Surveillance Manual</b>  Final Report
Authors' Names:	Michael Kulczak and Steven Polansky of National Association of Securities Dealers (NASD)
Activity Title and Number:	Achievement of Market-Friendly Initiatives and Results Program (AMIR 2.0 Program)  F/NASD-Preparing Market Surveillance Manual, FMD Component, Work Plan No. 621.03

## ***NASD Market Surveillance Manual***

*Final Report*

*November 15, 2005*

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

**Data Page**

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**Practice Area:** Financial Sector Services

**Service offering:** Capital Market Development

**List of Key Words Contained in Report:**

- Market surveillance
- Surveillance manual
- Price manipulation
- Insider trading
- Pump and dump fraud
- Front-running research
- Insider trade reporting
- Front-running client orders
- Trading away
- Wash sales/pre-arranged trading (wash sales)
- Marking the open/close (marking)
- Spoofing
- Sweeps
- Burden of proof
- Off-line surveillance

## **Abstract**

NASD was commissioned by the AMIR Program “to assist the JSC in developing a feasible market surveillance procedures manual based on the level of market information, data, and tools currently available to the JSC, ASE and SDC for surveillance and investigative purposes.” In response to this request, NASD developed a manual that is predicated on a significant shift in the JSC’s market surveillance practices, specifically away from the Commission’s current real-time to a post-trade surveillance approach. This manual addresses the detection and investigation of ten specific types of activity. In addition, NASD developed a series of accompanying recommendations associated either directly or indirectly with implementation of the manual and generally aimed at improving the effectiveness and/or efficiency of the market surveillance function. Finally, NASD submitted a spreadsheet-based tool, in conjunction with this report, to provide elements of basic alert functionality required for a post-trade surveillance approach.

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## **Executive Summary**

NASD was commissioned by the AMIR Program “to assist the JSC in developing a feasible market surveillance procedures manual based on the level of market information, data, and tools currently available to the JSC, ASE and SDC for surveillance and investigative purposes.” In developing the draft Manual, NASD also developed a series of accompanying recommendations associated either directly or indirectly with implementation of the manual. In addition, NASD developed the template for a spreadsheet that would provide the JSC with basic alerting functionality.

(For ease of reading, the recommendations are presented first, below, followed by the manual. The spreadsheet is being submitted separately as an electronic file.)

The manual that NASD has developed is predicated on a significant shift in the JSC’s surveillance practices. Specifically, the manual would require that the JSC move substantially away from its current real-time approach to market surveillance to a post-trade surveillance approach. (We discuss the rationale for this shift in Recommendation 6.) In order to accomplish this shift, the JSC must develop basic alerting tools that will highlight for analysts market activity that merits further investigation. The spreadsheet-based tool that NASD is submitting in conjunction with this report could provide elements of that basic alerting functionality.

The recommendations that NASD is submitting in conjunction with the manual address issues that will have a significant impact upon the effectiveness of the JSC’s market surveillance, investigation, and enforcement processes. These recommendations range from policy recommendations -- regarding, for example, establishment of burden of proof requirements -- to process recommendations -- regarding, for example, the creation of a regulatory news clipping service -- to organizational and staff development recommendations. While beyond the scope of NASD’s original remit, these issues will be critical to the JSC’s development of an effective market regulation program.

Finally, as noted earlier, NASD is submitting a spreadsheet template that the JSC could use to develop basic alerting functionality. NASD intends this spreadsheet to demonstrate the types of analytics that the JSC could apply to *currently available data*. This data would need to be extracted from exchange-provided applications and pasted into the spreadsheet on a daily basis. (Based on our understanding of the data and the formats in which it is presented, we estimate this process would take one analyst between 15 and 30 minutes per day.) The application of analytics would standardize the alert thresholds used by analysts and thereby facilitate a more consistent approach to surveillance across analysts. The alert thresholds referenced in the spreadsheet are illustrative. Once the JSC starts using this or a similar tool, its staff will need to determine the particular analytics and thresholds that should be used to generate alerts.

NASD recognizes that the JSC will likely have access to an automated surveillance tool in the future, but understands that this is likely to be at least one year away. Given the growth in volumes in the market, it is critical that the JSC boost its surveillance capabilities now. Moreover, the experience of developing and using a spreadsheet-based tool, will provide the Commission with valuable lessons-learned for any automated surveillance it undertakes in the future.

## NASD RECOMMENDATIONS

### 1. Issue instruction(s) to clarify and define trading violations

*Recommendation:* We recommend that the JSC exercise the powers provided by Article (12) Q of the Securities Law 2000 (the “Law”) to issue an instruction defining certain types of trading conduct or scenarios as being violations of specific provisions of the Law, particularly in reference to schemes designed to manipulate the price or volume of a security.

The contents of the instruction would be keyed to specific statutory provisions, including definitions if necessary. The objective is to define more precisely and illustrate the sorts of trading conduct that the Law intended to prohibit.

*Rationale:* Put brokers and clients on notice as to the kinds of trading behavior that would be considered unlawful and therefore expose them to potential enforcement action by the JSC. This sends a clear message as to the types of conduct that will not be tolerated. It also helps the JSC (and the ASE) by defining more precisely the factual elements required to prove a trading case in a successful enforcement action. For example, this result might be achieved by issuing an instruction to define the types of conduct that constitute a “prohibited act,” as found in Article 2 of the Law. Under the Law, the definition of “prohibited act” allows for elaboration via a JSC instruction.

### 2. Define the burden of proof required to bring civil enforcement action

*Recommendation:* We recommend that the JSC define the burden of evidence that it needs to meet in a civil enforcement action grounded on a violation of the Law.

This standard would apply in the case of an administrative proceeding at the Commission, or in a civil case brought before the appropriate local court. Consideration should be given to adopting a standard of preponderance of evidence (i.e., meaning that based on a review of the pertinent facts and circumstances, the occurrence of a violation is more likely than not) or the comparable standard applied in the context of a Jordanian Court’s deciding a civil matter.

*Rationale:* Clarify to the JSC staff, securities industry, the legal community, and the judiciary that the Commission can pursue a successful enforcement action based on persuasive circumstantial evidence that satisfies the data elements needed to constitute the violation being charged. In the case of significant insider trading and fraud actions, it is unlikely that the prime movers will confess guilt. Therefore, it is imperative to have a workable definition of the evidentiary burden so that the Commission can prosecute such cases successfully as civil matters, rather than criminal cases.



3. Expand role of Enforcement Unit in investigation and civil prosecution

*Recommendation:* We recommend that the JSC:

- o expand the responsibilities of the Enforcement unit to take a larger role in the conduct of investigations into serious/complex trading cases, e.g., in defining the theory of the case (vis-à-vis the Law and relevant instructions), obtaining relevant records and testimony under oath from potential defendants and witnesses, and assessing whether the evidentiary burden has been satisfied so as to justify the JSC's initiating enforcement proceedings;
- o define clearly where the role of the Capital Market Monitoring Department (CMMD or Department) ends and the Enforcement unit begins in case development; for example, the CMMD's investigative work could extend only to the point of establishing a *prima facie* case that a violation has occurred; then the case would be referred by Department to the Enforcement Unit (with an investigative report summarizing the theory of the case and the evidence gathered) for further investigation and validation that the cumulative evidence meets the relevant evidentiary standard;
- o make the Enforcement unit responsible for recommending the sanction(s) to be sought, and justifying the appropriateness of the sanctions in relation to the facts and circumstances of the case;
- o make the Enforcement unit responsible for presenting the case to the Commission to seek authorization to initiate a formal enforcement proceeding against the named parties; and
- o provide training to the Enforcement counsel to deepen their understanding of prevalent trading techniques/practices and the economic motivations for various fraudulent/manipulative behaviors.

*Rationale:* The recommended actions are meant to ensure optimal use of the staff resources and expertise of both the CMMD and the Enforcement unit. Each unit has different skill sets that should be used to complement one another. Implementation should yield a more efficient process in building strong cases that warrant JSC enforcement action either via the local courts (whether on the criminal or civil side) or an internal administrative proceeding. These recommendations should also reinforce the JSC's capacity to deal with appeals taken by persons who are sanctioned via an administrative proceeding.

4. Review sanctions guidelines

*Recommendation:* We recommend that the JSC review its current policy guidelines or rationales for calculating fines in the context of its administrative

enforcement proceedings to ensure that these fines create a significant deterrent to violative behavior. Fines should not become simply a cost of doing business for a broker, brokerage firm, or issuer.

*Rationale:* Fines have a vital deterrence and punishment function. Securities Regulators and industry SROs have found it useful to establish (and periodically review) guidelines or factors that they apply in deciding the levels of fines to apply in a particular enforcement case. Factors often considered include: the amount of ill-gotten gains; quantifiable harm to investors; recidivism by the named party; the existence of a significant supervisory failure as a contributory cause of the violation; obstruction of the regulator's investigation; and any remedial actions already taken by the defendant to rectify monetary losses attributable to the violations charged. The intent is to provide a logical basis for imposing fines that recognize the facts and circumstances of particular cases and that can be an effective deterrent.

5. Capture issuer and broker-related news

*Recommendation:* We recommend that the JSC:

- o develop either a physical or electronic "clipping service" to capture business news on brokers and issuers that could be 1) distributed to all relevant parties within the Commission, including the CMMD analysts, 2) stored for reference, and 3) queried;
- o request brokers that issue research notify the JSC when they issue such research (including date and time of release as well as recommendation, e.g., buy, hold, sell) and furnish copies of their research recommendations (and subsequent changes) to the JSC at least monthly, and preferably in an electronic form that can be easily queried by the surveillance analysts.

*Rationale:* Ready access to news stories (and broker research) could substantially enhance the regulatory effectiveness of staff in many areas of the Commission. With particular respect to the staff in the CMMD, news is an important factor in helping to explain price/volume aberrations in the market for individual securities. In lieu of all analysts sifting through four newspapers for potentially relevant news that might explain unusual activity, it would be more productive for one person (with proper direction/guidelines) to read, clip, and compile relevant business news for that day. This recommendation seeks to augment the JSC's database of corporate news beyond the content currently captured by the Disclosure Department and by the ASE on its web site. We understand that there are still instances where the first publication of material news occurs in a local newspaper, rather than via an issuer filing with the ASE or JSC.

6. Redefine surveillance work processes to focus on off-line surveillance

*Recommendation: We recommend that the CMMD:*

- o redefine the work process and basic responsibilities of the individual analysts to devote the bulk of the department's resources to the performance of off-line surveillance and investigative tasks;
- o define precisely the remaining on-line surveillance tasks to be performed by the JSC. In light of the reallocation of staff to off-line surveillance tasks, it should be feasible to dedicate only a single analyst to on-line surveillance tasks.

*Rationale:* (a) The efficiency achieved by the new daily reports will enable the analysts more rapidly to identify suspicious situations, (and to discard non-suspicious situations as well) and to launch the investigative process. Accordingly, analysts should focus their time on this work process instead of observing real-time activity in their assigned group of stocks and brokers during market hours. Effectively, this means that the bulk of the Department's resources will be dedicated to off-line analysis and investigation of suspicious trade sequences that they have identified with the new tool. (b) As for the on-line surveillance function, the objectives of this function should be reconsidered and precisely defined. In light of the JSC's practical experience, the task is to identify the major regulatory benefits derived from performing on-line surveillance and the most efficient methods to achieve those benefits. Additionally, consideration should be given to avoiding duplication of the process and regulatory benefits demonstrated by the ASE's on-line surveillance function.

7. Make use of surveillance "sweeps"

*Recommendation:* We recommend that the CMMD define a surveillance process for certain violations that would involve weekly, bi-weekly, or monthly "sweeps" designed to find a pattern of such activity by certain market participants based on a trigger event (in lieu of daily reviews for these violations).

For example, in the case of marking the close, the surveillance approach could look for a pattern of marks by a particular broker (whether done to benefit his own position or that of a particular client), as opposed to scrutinizing each day's closing prices and trying to find a suspicious closing trade. The trigger for performing this sweep over a defined time period would be a compilation of reports of closing price adjustments made by the ASE and the identity of the party who originated the executed order that the ASE rejected as the closing price. Having received these notices, the CMMD would scan all trades done by the named party during the final 15-30 minutes of trading over the past week (or longer) to see if a pattern exists in one or several stocks.

*Rationale:* The sweep approach to surveillance for certain violations does not necessarily attempt to detect every possible occurrence. Rather, it is grounded on a process designed to identify a pattern of the same violation, by a particular market participant, in a single or multiple securities over a defined time period. If a pattern is found, it is investigated and the perpetrator will be asked for an explanation of his closing trades and the economic rationale for them. For enforcement purposes, the detection of a pattern (coupled with an analysis showing economic benefit) is persuasive evidence of intent to commit the violation, and the fact of repeated violations should merit a larger fine. Since the practice in Jordan is not to cancel “marking trades”, the performance of surveillance for this activity on a weekly or monthly basis poses no particular risks to the market place. Instead, it allows analysts to focus their daily reviews on potentially more serious violations.

8. Maximize utilization of available market data/build statistically-based alert functionality

*Recommendation:* We recommend that the JSC make better use of existing market data and monitoring tools to expedite the process by which analysts isolate securities and scenarios that should be reviewed for potential trading violations.

This could be done by providing each analyst daily (for his/her entire stock group) with a series of basic statistical measures to assess whether the security’s price and volume pattern is aberrational, starting with the most recently completed trading day and looking backward for selected time periods. This involves capturing the historical price/volume information for each security and subjecting to it a series of statistical comparisons (using an off-the-shelf software tool such as Excel) to expedite the analyst’s determination whether an aberrational pattern exists so as to justify his/her launching a review for a potential trading violation. Each analyst would receive the proposed statistical report daily, for each security within his/her assigned sector. The CMMD Director would control the setting of various parameters used to produce the new report. With input from the analysts and tracking the number and types of trading cases being generated, the Director could, over time, reset the parameters to fit the changing circumstances of the marketplace.

*Rationale:* Today, surveillance analysts expend a disproportionate amount of time retrieving and sifting historical trade data from multiple sources just to gain perspective or context for a security’s price/volume movements for the most recent trading day. This data retrieval and sifting process must be performed before an analyst to can apply personal judgment and experience to decide if a sufficiently unusual pattern exists to justify a detailed review for any trading violations by individual market participants. Implementing the proposed recommendation would enable the analyst to begin his/her day with a statistical package that promptly allows the application of his/her judgment and experience

to decide which securities warrant a review and to do so at a much earlier point in time. Hence, the benefit achieved is to provide more time for the analysts to perform their essential functions by eliminating the time currently expended to search for, retrieve, and compile basic data on the inter-day trading characteristics of a given stock.

9. Develop Department staff alert development capabilities

*Recommendation:* We recommend that the CMMD develop staff capability to build alerts or present data in a way that facilitates analysts' ability to detect possible rule violations, using existing data available through ASE and SDC systems, as well as through queries of relevant information sources. In addition, these staff could provide vital input into the development and design of any future JSC database of market data. This position would be, basically, a precursor the "knowledge engineer" position (discussed in Recommendation 25 of our previous report).

*Rationale:* As the levels of market activity increase, the CMMD urgently needs to move beyond "real-time" manual surveillance of the market to automated data analyses that produce alerts for analysts to investigate. To do this, the Department will need to develop staff who possess knowledge of the types of trading violations and who can then translate that into data extraction and analysis techniques, including database queries, which will simplify the task of surveillance. Ideally this data analysis will produce alerts; however, if that is not possible, it can be used, at a minimum, to present existing data in a way that allows analysts more rapidly to make a determination as to whether behavior has occurred that merits further investigation.

It should be noted that the development of these techniques is not a one-time process. New queries will need to be created – and existing queries continually updated, or tuned – on the basis of evolving market behavior and as the staff develops concepts of how market data can be better used to identify potential violations.

The development of this staff capability will also better position the Commission to evaluate future market surveillance systems. The analyst(s) who performs this function will be able to assess whether a surveillance system being considered for acquisition will be able to make use of available data in a way that will be more useful for the CMMD. In particular, this analyst(s) would be well positioned to develop the business requirements for a subsequent surveillance system.

10. Develop technology specialist position

*Recommendation:* We recommend that the CMMD have, either internally or in the IT department, a technology specialist dedicated to addressing its needs.

This person would not be a programmer. Rather, this individual should possess knowledge of what surveillance analysts do, what they are looking for, and what

would make the performance of their tasks easier and more efficient. In other words, the technology specialist must be familiar with the processes and tools the surveillance analysts need to detect and investigate various trading violations, the elements of which are defined by the Law and pertinent instructions. Among other things, this person would take lead responsibility for: (a) identifying efficient and cost effective means to develop those tools (e.g., looking for possible technology solutions that would enable focused queries of existing JSC/ASE databases to support surveillance and investigative functions); (b) developing roll out plans for new tools or surveillance systems; (c) evaluating the merits competing vendor products which the JSC might procure to upgrade its surveillance capabilities; (d) developing the CMMD's annual technology plan for budgeting and agency wide planning purposes; (e) evaluating the CMMD's principal functions and data needs in relation to the contents of other in-house data bases to enable the Department to satisfy some of its business needs with specialized queries; and (f) functioning as the CMMD's liaison with the JSC IT Department.

*Rationale:* Applying cost effective technology to meet defined needs to is critical to the CMMD's capacity to fulfill its duties. Presently the Department has no dedicated resource to assess and prioritize technology needs, define business requirements, and evaluate alternative vendor products that could meet those needs. Further, given the dramatic growth of securities trading in Jordan, it is imperative that the JSC keep pace by adapting appropriate tools to make its analysts even more efficient and productive. Toward this end, a strong candidate for this job could be one of the existing surveillance analysts who exhibits appreciable skill and ingenuity in using the current technology package to carry out his/her duties. Assuming that this recommendation is adopted, the new specialist could be very valuable in working with the analysts to fine tune the parameters of the Excel enhancement discussed earlier and otherwise facilitate its implementation near term.

#### 11. Initiate implementation of off-line surveillance approach through pilot program

*Recommendation:* We recommend that the CMMD implement the surveillance approach put forth here – specifically Recommendations 6, 7, and 8 as well as in the Manual – on a pilot basis, if full implementation is not immediately feasible. This could be done by dedicating one analyst to monitor a select group of companies – e.g., ten of the most actively traded companies, ten of the companies with average trading volume, and ten of the more illiquid companies – using the approaches proposed in this recommendation section as well as in the Manual.

*Rationale:* The phased implementation approach offers several specific benefits. First, at a general level, the pilot program would enable the CMMD to evaluate the overall approach to post-trade surveillance proposed in this report as well as the specific surveillance and investigative steps in the attached Manual. Second, it enables the CMMD to learn more about and test the statistically based surveillance algorithms put forward in Recommendation 8 on a subset of

companies. During the pilot period, the CMMD can evaluate the effectiveness of the specific alert algorithms proposed in the accompanying spreadsheets and modify them as warranted by experience with live data. (Note that the ongoing evaluation of alert algorithms should be an ongoing process, not one that is limited to the pilot period.) Third, the pilot program helps mitigate the operational disruption and risk of introducing new procedures across the board. By piloting the Recommendations 6, 7, and 8 as well as the Manual, CMMD management will be able to decide what works well as well as what requires modification. Management can then roll the approach out across analysts in the surveillance unit.

## **JSC Market Surveillance Manual**

### **INTRODUCTION**

#### **A. Objectives and Overall Responsibilities of the Capital Market Monitoring Department**

The Securities Law No. (76) for the Year 2002 (the Law) established the purposes, prerogatives, and scope of jurisdiction for the Jordan Securities Commission (JSC). More specifically, the Law authorized the JSC to regulate virtually all facets of investment business conducted in the Kingdom. Article (8) A of the Law lists the following primary objectives for the JSC's regulatory activities:

1. protecting investors in securities;
2. regulating and developing the capital market to ensure fairness, efficiency and transparency; and
3. protecting the capital market from the risks it might face.

To achieve these objectives, Article (8) B specifies that the Commission shall assume the following responsibilities and authorities:

1. regulating and monitoring the issuance of securities and dealing therein;
2. insuring full and accurate of material information by issuers;
3. regulating and monitoring issuers' disclosures made via their periodic reports;
4. Regulating licensing and registration, and monitoring the activities of Licensed and registered persons conducting business in the capital market;
5. regulating and monitoring the Stock Exchange and Trading Markets in securities;
6. regulating and monitoring the Securities Depository Center (SDC); and
7. regulating mutual funds and investment companies.

The work of the Capital Market Monitoring Department ("CMMD" or "Department") relates, either directly or indirectly, to the JSC's achievement of most of the regulatory goals/responsibilities described above. Hence, effective operation of the Department is critical to the JSC's overall mission of enhancing investor safeguards and promoting growth and participation in the Jordanian capital market.

A major task of the Department is to monitor a broad range of market information to identify potentially serious trading violations, conduct reviews to determine the likelihood of a trading violation based on a given set of facts, and to refer appropriate matters to the Enforcement Department further investigation and possible prosecution. The purpose of this Manual is to articulate systematic processes and procedures for the Department to carry out the initial detection and review of trading violations perpetrated on the Amman Stock Exchange (ASE). This Manual is not intended to address the Department's responsibilities vis-à-vis monitoring the activities/operations of the ASE and SDC, respectively.



## **B. Key Staff Responsibilities for Capital Market Monitoring Department**

Surveillance Staff Responsibilities Include:

- Keeping abreast of business and market news that could impact trading volumes/price trends in individual securities;
- Gaining a thorough understanding of the ASE Trading Rules, including amendments;
- Gaining a thorough understanding of the factual elements (defined by law, instructions, and guidelines) that comprise the violation categories targeted for surveillance;
- Using effectively all research and detection tools provided;
- Following Department guidelines and conventions for logging-in, documenting work performed, and producing reliable investigative reports in a timely manner;
- Deciding, based on objective facts and circumstances (derived from research), whether a particular aberration may constitute a violation and justify a referral to Enforcement;
- Using good judgment to identify issues and problems that deserve to be brought to the Director's attention, and suggesting alternative responses to the Director;
- Using good judgment in deciding to contact designated individuals at brokers, issuers, or counterparts at the ASE or SDC; making adequate preparation/research before making such contacts; and developing a professional rapport with all external contacts as well as contacts within the JSC;
- Adhering strictly to confidentiality requirements; and
- Taking advantage of training opportunities to build professional and technical skills.

The Department Director's Responsibilities Include:

- Organizing and directing the Department's work flow;
- Maintaining the overall effectiveness of systems and procedures used to monitor for and investigate trading violations;
- Developing objective performance standards keyed to the unique operations of the Department;
- Developing appropriate security safeguards and access restrictions to non-public documents and information captured within the Department's files and systems;
- Identifying automation priorities to increase efficiency and effectiveness of regulatory programs assigned to the Department;
- Providing regular guidance on program priorities to staff; identifying and communicating expanded regulatory responsibilities triggered by new securities products and/or changes in the Law or regulations;
- Meeting regularly with staff (e.g., at least weekly) to review quality and quantity of output; these meetings also should be used to review and discuss all completed cases for the week that were either recommended for closure or referral to the Enforcement Department;

- Establishing and maintaining a close working relationship with the Director of Enforcement; this relationship should focus on issues such as the sufficiency of evidence gathered by the Department; methods for coordinating reviews of customer complaints that allege serious trading violations; establishing standards for expedited referrals of certain cases (e.g., insider trading) that will involve in-depth investigative work by the Enforcement Department; and mutual agreement on the scope/content of documentation that should accompany case referrals to Enforcement;
- Maintaining cooperative working relationship with counterparts at the Exchange and Depository, particularly with regard to the Department's access to information captured exclusively within the Exchange's/Depository's data repositories;
- Providing guidance on what constitutes sufficient evidence to make a prima facie finding that a serious violation has occurred and that the matter should be referred to the Enforcement Department;
- Providing guidance on the types of issues and problems that the staff should promptly bring to the Director's attention, including any background research needed to facilitate the Director's handling of the matter.
- Setting reasonable goals for completing investigative work, e.g., maximum of 30 days from opening inquiry; if a longer period is required, the responsible staff must request and justify an extension of time;
- Identifying appropriate training opportunities to enhance skills of staff;
- Soliciting ideas from staff on streamlining investigative procedures, further automating research tasks, and improving communications and coordination with other Departments and external entities regulated by the JSC; and
- Adhering strictly to confidentiality requirements.

### **C. Overview of Prohibited Trading Practices**

The Department's work in market surveillance is largely driven the goal of monitoring for trading violations defined in Articles (107), (108), and (109). Each provision describes certain conduct that is deemed to be a violation of the Law. To understand the precise intent of these provisions, it is essential to understand certain words/phrases that are defined in Article (2) of the Law. (Over time, the JSC may issue instructions that define even more precisely the patterns of conduct that are deemed to be violations of any particular article.) In any event, these legal provisions define the core factual elements that must be demonstrated in order for the JSC to conclude that a violation has occurred, and that some type of enforcement action should be taken in response.

Article (107) mostly deals with the veracity of disclosures made by parties making filings with the JSE, including issuers whose securities are offered publicly, and become listed on the ASE. Article (107) defines four separate categories of violations:

1. The submission of false or misleading data in any document filed with the JSC;
2. The offering or selling of securities on the basis of false or misleading data regarding the rights or privileges conferred by a particular security, or the nature and success of the issuer's business or financial condition;

3. The certification by an accountant or auditor of a false or misleading financial statements, or of financial statements that violated established accounting standards; or
4. Any deception or misrepresentation relating to securities or any Prohibited Act relating to activities that require a license under the Law.

In reference to Article (107), it is important to recognize and apply the following definitions of key terms from Article (2). Specifically, “**deception**” is defined as “an act, scheme, device, practice or course of conduct likely to have the effect of misleading others or [that was] intended to mislead others.” Similarly, “**misrepresentation**” is defined as “any untrue statement of a material fact or any other datum required to ensure that a statement made is true and accurate.” And, the term “**material fact**” is defined as “any event or datum that, to a reasonable person, would have an effect in making a decision to buy, hold, sell or dispose of a security.” Factoring these definitions into a reading of Article (107), it is clear that the evidence to allege a violation must be sufficiently persuasive to enable the trier-of-fact to infer the responsible party’s intent to commit the misconduct, and the misconduct itself must be substantial and not immaterial in the context of the alleged violation. Article (107) D is the broadest of the four prohibitions within this Article and might be viewed as a “catchall provision” based on its broader wording as compared to subsections A-C. This is the case because subsection D prohibits any form of deception or misrepresentation relating to securities, or any “**prohibited act**” relating to the activities of a licensed intermediary under the Law. (Article 2 of the Law defines “**prohibited act**,” to mean “any action, scheme, course of conduct, or device forbidden in this Law or the regulations, instructions, or decisions issued pursuant to [the Law].”) Nonetheless, these definitions suggest that a showing of intent to misrepresent, deceive, or commit a prohibited act would be need to allege a violation of this provision of the Law.

Article (108) generally prohibits trading on the basis inside information or influencing others to do so. It also prohibits using inside information to obtain material or “moral” gains whether for the trader’s own benefit or for the benefit of others. The final prohibition in Article (108) C makes it unlawful for a person possessing inside information to disclose it to any one else, other than recognized authorities or the courts that have a legitimate need to know the information, presumably for law enforcement purposes. One implication of Article (108) C is that a person who receives inside information from an insider becomes subject to the same trading prohibition, specified in Article (108) A, as the true insider. In other words, a violation of Article (108) A does not require a showing that the trader is an insider in his/her own right, but only that he/she possessed inside information and traded on the basis of that information.

Key to understanding the elements of an Article (108) violation are the definitions of “**material fact**” (already covered) and “**inside information**.” Article (2) of the Law defines “**inside information**” as: “Information relating to one or several Issuers or to one or several securities which has not been made public and which, if it were made public, would likely affect the price of any such security. This does not include inferences drawn

on the basis of economic and financial studies, research, and analysis.” The term “**insider**” means a person who possesses inside information by virtue of his position or job. However, this term is not found in the text of Article (108). An important item to note is that once inside information is published, it is no longer confidential and persons become free to trade on such information. However, until that occurs, potential liability for violating Article (108) must be determined through the investigative process.

In addition, Article (109) of the Law aims to protect investors from various forms of misrepresentation as well as deceptive practices. Article (109) A prohibits the dissemination and promotion of rumors or “false or misleading information, data or statements which may affect the price of any security or the reputation of an Issuer.” Subsection B prohibits a person from acting individually or in collusion with others “to effect any transaction in securities with the intention of creating a false impression of the price or volume of trades of a security or any related security.” These provisions of Article (109) would form the basis for prosecution of various trading activities (e.g., wash sales and marking-the-close) that are motivated to manipulate the market price and/or volume of a security. To allege and prove such violations would require a showing of intent to manipulate or interfere with the pricing mechanism in the marketplace. Absent an admission of guilt, the quantum of evidence must be sufficient to allow an inference of intent by a reasonable person.

Article (2) defines “**deception**” as “(a)n act, scheme, device, practice or course of conduct likely to have the effect of misleading others or intended to mislead them.” Similarly, Article (2) defines “**misrepresentation**” as “any untrue statement of a material fact, or any omission or concealment of a material fact or any other datum required to ensure that a statement made is true and accurate.” Thus, the prohibitions set forth in Article (109) would reach prohibit fraudulent advertising, sales schemes, practices or courses of conduct that cause the targeted persons to be misled about the merits of a securities product or investment strategy. Among other things, Article (109) would prohibit fraudulent or deceitful sales practices intended to induce persons engage in securities transactions.

In sum, the Law provides the JSC with the authority and powers necessary to carry out its responsibilities and fulfill the regulatory objectives specified in Article (8). Consequently, the JSC has responsibility for monitoring trading on the Exchange to detect, investigate, and prosecute manipulative and fraudulent trading activities as well as prohibited insider trading. This authority to monitor trading is comprehensive and must, therefore, include the trading activities of all clients as well as licensed intermediaries that conduct a securities business in Jordan.

#### **D. Delegated Authority to the Capital Market Monitoring Department**

The Board of the JSC has delegated authority for market monitoring and investigation of questionable trading activities on the Exchange to the Department. Therefore, the Department has been organized with a dedicated number of staff that performs the market

surveillance and investigative functions on a daily basis. The Director has primary responsibility for supervising and guiding this staff.

Whenever the Department completes a preliminary review and finds a prima facie case of an apparent violation, the Department should finalize its work by preparing a trading inquiry report. Essentially, this report documents the Department's work on the case and formalizes its recommendation for referral of the matter to the Enforcement Department for further investigation and prosecution. Consistent with the supervisory scheme, the disposition of every trading inquiry opened by the Department must be first be approved by the Director. Thus, the Director (or her designee) must review and approve the adequacy all final investigative reports, including the recommended disposition of each matter (e.g., close without further action or referral to the Enforcement Department). If the Director does not approve, then matter must be sent back to the originating analyst for further work. In this regard, the Director should specify those areas that require further fact-gathering or analysis to justify the final disposition of the case. (For guidance purposes, a sample Trading Inquiry Report Form is attached as Appendix 1).

The Department Director should periodically notify her counterpart in Enforcement of all trading inquiries that have been recommended for closure without further action. This interchange of information is meant to promote close cooperation between the two Departments and mutual recognition of fact patterns that justify (or do not justify) further investigation by the Enforcement Department. Similarly, the Enforcement Department should routinely notify the Department of any customer (or intermediary) complaints that it receives involving fact patterns indicative of serious trading violation. This will aid the Department in assessing the continued effectiveness of its market monitoring techniques.

The scope of the Department's monitoring responsibilities shall include novel trading activities or practices that emerge and have the potential to artificially influence the prices/volumes of securities traded on the Exchange or that could undermine the integrity and public image of the marketplace. Set forth below is a description of the types of trading violations initially targeted for coverage via the Department's routine surveillance procedures. Over time, this list will change based on a variety of factors such as the launch of new securities products at the Exchange, new trading segments, changes in the functionality of the trading system, and new trading strategies that evolve among market participants.

## **II. MONITORING FOR MARKET RULE VIOLATIONS**

### **A. Marking-the-close**

1. *Description of violation:* Marking-the-close is a form of market manipulation. This activity typically involves the buying or selling of securities or derivatives contracts at or near the close of the market in an effort to alter the closing price of the security or derivatives contract.

Motivation: Marking-the-close is typically done for one of four reasons:

- o to manipulate the price of a security upwards as part of a pump-and-dump scheme;
- o to manipulate the price of a security in the advance of a block trade, if the pricing of that trade is affected by the security's official closing price; e.g., many markets allow the use of "market-on-close" orders, meaning orders that are to be executed on the basis of the day's closing price.
- o to manipulate the price of a security above a certain level in order to maintain the value of securities already in the perpetrator's possession as collateral, typically for a bank loan or margin account; or
- o to manipulate the price of a security upwards to support the valuation of a portfolio of securities for reporting purposes, e.g., by an asset manager seeking to show that his investment portfolio has maintained or increased in value.

*Note: if options are introduced to the market, marking may occur around options expiration as entities attempt to ensure that an option is or is not able to be exercised.*

With specific respect to the latter two motivations for marking, the final trading day of a calendar month or calendar quarter also can be critical dates for valuing an investor's holdings in a security based on a contract or loan commitment. Therefore, particular attention should be paid to the performance of this review at and around the final trade date of a month and a calendar quarter.

In addition, an imminent secondary offering may provide the incentive to mark the security's closing price on the date immediately before the offering price is fixed. In this case, the marking trades may occur on only one or two trading days. Hence, the staff should be alert to these various possibilities and routinely check for corporate news on the issuer that would suggest an economic incentive for the marking activity during a short time period.

Manifestation in data: These different scenarios will affect how the violation manifests itself in trade data. The first scenario would likely occur over multiple days in a repeated attempt to move a security's price up or down. The second scenario – manipulating in advance of a block trade – would likely only occur only on the day the block trade is executed. The third scenario – maintaining the value of collateral – would likely occur periodically when a security's price falls below the value necessary to maintain the required collateral (and thus avoid a margin call). The fourth scenario may involve a

multi-day marking effort or may occur only on the day in which the security is marked-to-market for portfolio valuation purposes.

In sum, the pattern being sought should contain:

- o isolated trades, at or near the issue's close for a day or over multiple trading days (not necessarily successive days),
- o that originate with the same intermediary and client,
- o or the same client using multiple intermediaries, or the same client and another that he controls (e.g., via a power of attorney) using the same or multiple intermediaries.

Cites to law: Implied prohibitions on Marking can be found in several places in the Law. Specifically, Article (109) B prohibits any person from acting individually or with others "to effect any transaction in securities with the intention of creating a false impression of the price or volume of trades of a security or any related security." In addition, with specific respect to Licensed or Registered Persons, Article (56) B prohibits the practice of "deception" which is defined in Article (2) as "(a)n act, scheme, device, practice or course of conduct likely to have the effect of misleading other or intended to mislead them."

2. Description of allocation of responsibilities for detection/investigation: The ASE is responsible for adjusting any trades that it believes may have been executed to manipulate the closing price of the security. It is envisioned that the JSC will take lead responsibility for investigating the case and taking enforcement action against the violators, who may include, among others, ASE member firms and their associated persons
3. Description of the procedures for detection and investigation: The trigger for pursuing an investigation in this area is notification from the ASE that the Exchange has adjusted the official closing price of a security. The ASE's notice should identify the specific trade that was rejected as providing the official closing price.

The following investigative steps are intended to determine whether the individual(s) or entity that placed an executed order that resulted in the ASE adjusting the closing price of a security did so for one of the purposes described above (in subsection 1). The analyst's objective is to formulate a theory of the motivation for the trade and, based on that theory, to extract relevant data to test that theory. In addition, to bolster the chances of a successful case, the analyst should look to see whether the trader demonstrates a pattern of actual or attempted marking behavior.

To that end, the analyst should take the following steps upon receipt of a report from the Exchange:

- a. Initial investigation/establishing motivation
  - i. identify the institution or individual (including national identification number (NIN)) standing behind the trade.
  - ii. Determine whether a block trade occurred (during the block session that day) in the security for which the price was adjusted. If yes, determine the identity of the brokers and clients on both sides of the block trade. Then proceed according to the steps below.
  - iii. Using the SCORPIO system,
    - retrieve trades in all securities by that individual or institution for the past 30 days, in the final 30 minutes of each trading day and sorted by security.
    - For institutional investors/portfolio managers, determine the date(s) upon which the entity marks its portfolio to market for reporting purposes, determine if the canceled trade's price occurred at or near this time, and, if so retrieve all trades in the specific security at the same time of the month for the previous six months.
  - iv. Review trades retrieved
    - *Of the specific security* (i.e., the security for which the ASE adjusted the closing price) near the close to assess if there is a floor price for the security that the trader appears to be attempting maintain, e.g., the trader only enters trades if the prices falls below JD 3.00. If so, this suggests marking for the purpose of maintaining collateral. Proceed to step b. below. If not, continue with review steps below.
    - Of all securities trades that occurred near the close of the trading day. For institutional investors/portfolio managers, pay particular attention to the pattern of activity on the day of, and the days immediately prior to, the date upon which the manager marks its positions to market. A series of trades at this time in one or multiple securities suggests that institution may be attempting to mark the price for portfolio valuation purposes.

*Note: "Near the close" must be interpreted in the context of the typical trading activity of the security. For actively traded*



*securities, this might be the final minute or 30 seconds of the trading day. For inactively traded securities, this might be the final hour. The Department should agree on the standard time frame(s) that will be used to define “near the close.”*

*Note: In addition, pay particular attention to those trades that appear to involve small lot sizes. Small trades are a way to mark the close at relatively little economic risk to the perpetrator.*

- v. For those trades that occurred near the close, compare their prices with the official closing prices (using GL Trade or MIS) in the subject securities to determine if the trade did, in fact, influence or set the closing price. Also review previous notes from the ASE to determine if the same party previously executed trades that were adjusted by the ASE so they did not set the official closing price.
- vi. Assess whether the closing price materially moved the price of the security away from the previously prevailing market price and note all instances in which this occurred for each date within the review period.

Note: The Department should agree on a standard of what is considered a “material” move in the price of the security, e.g., 2%, 3%, etc. The department may wish to establish different categories of thresholds based on a security’s historical volatility.

b. Investigation and documentation

- i. If a pattern of marking is found over several trade dates (or in one or several securities), request photocopies of order memoranda and trade authorizations from the originating intermediary. This documentation is needed to substantiate the terms/conditions of the original order and the time of its actual receipt or acceptance by the intermediary (which should be near the market close) from the customer. In the case of a block trade involving two licensed intermediaries, contact both the buy and sell side brokers and obtain photocopies of the relevant documentation to determine the basis for pricing of the trade. Also verify the security’s official closing price on that date.
- ii. With the NIN, query the Securities Depository Center (SDC) (Depository) to determine the customer’s personal information (name, address, etc.) and his position in the security, immediately before and after the effected the apparent “marking” transactions. This is done to document a possible economic benefit.

- iii. Normally, parties engaged in “marking up” closing transactions will have a sizable long position in the subject security and therefore seek to maintain or increase the value of their position as, for example, in the case of margin maintenance, or portfolio valuation scheme as described above. The existence of any pledge or collateral lien on the customer’s securities position at the SDC should also be noted in evaluating economic benefit from the marking activity.
  - iv. In some instances, the marking may have been performed for a subsequent economic benefit such as improving the price of a block trade. The existence of any pledge or collateral lien on the customer’s securities position at the SDC should also be noted in evaluating economic benefit from the marking activity.
- 4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.

## B. Insider Trading

- 1. *Description of violation:* Illicit insider trading involves the trading on the basis of non-public information concerning an issuer or a security. Inside information is confidential and non-public information which, if made public, would have a high probability of affecting the security’s price.
  - a. This violation derives from the fact that the trader possessing inside information has an unfair informational advantage over other traders, actual or potential. This advantage is not removed until such time as the sensitive information is published. Once publication occurs, the information loses its status inside information, and the trading prohibition no longer applies.
  - b. Article (108) of the Securities Law prohibits trading on the basis of “**inside information**” in any security. Article (2) defines “**inside information**” as: (a) information relating to one or several Issuers, or to one or more securities which is presently non-public and (b) which, if it were made public, would have a high probability of affecting the price of any related security. Article 2’s definition excludes inferences drawn on the basis of economic and financial studies, research, and analysis. Similarly, Article 2 does not contain a definition of “confidential information,” although that term is used synonymously with “inside information” in Article (108)B. Thus, it is reasonable to conclude that the terms are equivalent in this context. Article (108) does not use the term “insider”, but this term is defined in Article (2) as “a person who possesses inside information by virtue of his position or job.”

- c. Article (108) defines three possible scenarios that would constitute a violation of that Article:
  - i. when a party trades for his/her/its own benefit, or influences others to trade for their benefit on the basis of inside information;
  - ii. when a party uses inside information to obtain material or moral gains, either for his own benefit or the benefit of others; or
  - iii. when a party possesses and discloses inside information to anyone other than competent authorities or the Courts that have a need to know such information.
- d. Thus, under Article (108), scenarios (A) and (B) deal with reliance on, or use of inside information to realize some form of gain by trading on the inside information, either directly or through others. In contrast, scenario (C) makes it a violation simply to disclose inside information to anyone other than the courts or recognized authority that has a need to know such information. A violation of Article (108) (C) would exist, for example, if an insider disclosed inside information to some party that had no need to know such information, regardless whether the recipient actually used the inside information for his/her financial benefit.

*Note: To deter the unauthorized disclosures of inside information, many corporations in the US and W. Europe have adopted codes of conduct that place express restrictions on the sharing of confidential information with persons that do not have a business need to know such information. Compliance with the code is not a voluntary matter. Rather, the code is incorporated by reference into the employment contracts of corporate officers, directors and mid-level managers, and a failure to honor the code can be a ground for dismissal.*

- e. Generally speaking, the most likely scenarios to be detected by the Department's surveillance staff would a violation of either subsection (A) or (B) of Article (108) A violation would involve trading on the basis of inside information, for example, (i) the purchase of an issuer's shares with foreknowledge of a pending takeover of the company at premium price over its current market price, or (ii) the sale of securities based on foreknowledge of financial information showing a sharp and unexpected decline in a company's profitability, which, when made public is likely to trigger an immediate decline in the company's share price.
- f. Under the Law, confidential corporate information is deemed to be "inside information" if its substance and disclosure would be more likely than not to affect the price of the related security. Although the Article 2 definition of inside information rejects any mechanical test or formula, a stronger case can be made if historical market information for the relevant time period shows that the information's publication resulted in an immediate movement

(upward in the case of positive news or downward in the case of negative news) in the security's price approaching or reaching the 5% limit allowed by the ASE trading system. If additional movement occurred in that day's block session, that data can be additive in illustrating the materiality of the news once it was published. Ideally, a 5% move in one trading day – consistent with the nature of the now public information – would be persuasive that the information was in fact “inside information” at the point in time that it was disclosed. Therefore, trading ahead of that disclosure would constitute a potential violation, absent another explanation for the suspicious trade.

*Note: For example, some corporate officials might instruct their broker to purchase a fixed amount of shares each month pursuant to a retirement savings plan. A pattern of such regulator monthly purchases could be a valid potential defense to a charge of insider trading.)*

- g. Given the 5% price collar that exists for ASE-listed securities, it is conceivable that the materiality test also could be satisfied if the security's closing price moves upward (downward) the maximum amount on the date of first publication of the material news, or more than five percent over two business days following first publication, with the benchmark price being the stock's closing price on the business day immediately before the date of first publication. However, by extending the “material affect test” outward to subsequent business days, the analyst must be able to factor out any other corporate news or economic events that might have impacted the security's price on trade dates following the date of first publication.
- h. The process of comparing an issue's price immediately before and after an announcement of major news to determine if the news was material is a valid test provided that the issuer promptly satisfies its disclosure obligations. There may be instances, however, where the material news leaks into the market well before the eventual date of the issuer's announcement. In this scenario, the security's price before the news announcement may have substantially discounted the impact of the announcement of first publication. As a result, the security's pre-announcement price movement may at first appear to be a possible price manipulation. However, when the analyst investigates and finds that this movement was attributable to pre-announcement trading in reliance on inside information, the case becomes one of possible insider trading, and not price manipulation. Hence, virtually every announcement of material corporate news should be checked by looking back for pre-announcement surges in the security's trading volume and market price that would indicate potentially illicit insider trades.

2. *Description of allocation of responsibilities for detection/investigation:* Either the JSC or the ASE may initially detect a potential insider-trading scenario. It is envisioned that the JSC will take lead responsibility for investigating the case and taking enforcement action against the violators, who may include, among others, ASE member firms and their associated persons.
3. *Description of the procedures for detection and investigation:* Publication of material news regarding a specific, ASE-listed company will normally be the event that triggers an inquiry for possible insider trading.
  - a. Daily, the analyst should check the following sources for potential material news:
    - i. news clippings from local newspapers or a comparable electronic news service;
    - ii. the ASE and JSC web sites pages containing issuer news announcements;
    - iii. the JSC Disclosure Department for newly-filed corporate financial filings by listed companies; and
    - iv. newly-issued investment recommendations published by ASE members.

*NOTE: It is imperative that the JSC compile a comprehensive database of corporate news that can be readily accessed to test for possible insider trading violations. In the absence of a domestic compiler of business news comparable to Reuters or Dow Jones, the JSC can begin by compiling daily news clips of business news related to ASE-listed companies from the four local newspapers that carry such information. The clips can be photocopied and circulated to the individual analysts (and the Director) for consideration in their daily reviews. Finally, the JSC should survey ASE members to identify and collect investment research that they offer to potential investors.*

- b. As to those news stories that appear material in substance (e.g., mergers, major product launch, acquisition of a major new contract, sharp growth/decline in reported earnings, significant dividend actions, adverse court rulings, etc.), the analyst should check each affected security and document the magnitude of the price/volume aberrations immediately after first publication. If a 3% to 5% threshold is met or exceeded, it is reasonable to conclude that the content of the announcement was material and that a preliminary inquiry should be launched. The necessity for this price movement test is to show that the information, when made public, was inside information because it “affected” the price of the related security. Hence, the content of the news should be material or significant in nature to

produce the required market impact. Absent this showing, a charge of insider trading cannot be sustained.

- c. Assuming that insider trading is the theory of the case, the first step is to look for possible illicit trading by corporate insiders. To do so, the analyst must identify all board members and officers currently affiliated with the company. (This information should be available from the issuer's most recent annual report, and possibly any interim reports announcing changes in senior management.) For each insider identified, ascertain the person's NIN and query the SDC's data base for all trades in the subject security over the 60 calendar days immediately preceding (and inclusive of) the date of first publication. For each trade thus identified, it is necessary to record the executing broker's identity, transaction side (buy/sell), unit price, number of shares transacted, and the total value of all trades effected by insiders during the review period.
- d. Next, it is necessary to compile this information in a spread sheet showing the pertinent activity for each insider identified in the preceding step. Specifically, it is necessary to show the date of each transaction found, and the trader's net position as of the date of first publication of the news. In the event that the person bought and sold the subject security during the review period, the net position as of the end of the review period must be calculated to place a value on the economic benefit received, or loss avoided in the case of negative inside information. For that net position, calculate the weighted average acquisition cost, and the position's value at the close of business on the date of first publication of the inside information. If the difference between the position's total cost and valuation at close of the day of first publication is economically favorable to the trader and amounts to at least 5,000 JD (or such other standard as the JSC might choose to apply), this person should be categorized as a potential violator. Repeat this process for all current officers and directors of the subject company.
- e. For each of the current officers and directors of the subject company, perform the same "look back" analysis for close relatives identified through the "family tree" data available from the SDC or the Civil Service agency that assigns NINs. Essentially, this involves capturing the NINs of close relatives of directors and officers of ASE-listed companies. The objective is identify situations where the insider may have disguised his illicit trading by directing trades to be done in through a relative's account instead of his/her personal account. Alternatively, this analysis may reveal that close relatives who received inside information from an insider decided to trade on that information for their own direct benefit. Again, using the MIS and other available tools from SDC to track trading activity a person's NIN, it is possible (and necessary) to reconstruction the trading of these "tipees" during the review period.

- f. Finally, to complete the analysis, it is necessary to request from the affected issuer, an oral chronology of events – i.e., corporate decision points corresponding to meetings of the Board of Directors, its Executive Committee, or any other body whose deliberations created the inside information – and the natural persons principally involved in making those decisions. This oral chronology should be requested within the first week when the analyst initiates his insider trading inquiry, with a deadline of no more than five business days for the issuer’s oral response. At that time, the issuer should also be requested to provide the chronology in written form no later than two weeks after Department issues a written request for a final chronology from the issuer. (The written request would be issued no more than one or two business days after the oral request.)
- g. The objectives of the investigation are to identify:
  - i. a list of persons who were privy to the inside information by virtue of their participation in corporate decision-making on the matter;
  - ii. the dates on which those individuals would have had an opportunity to obtain the inside information; and
  - iii. the dates on which they actually traded the affected stock either directly, or through their nominees/close relatives.

The written chronology furnished by the issuer should be used to verify the ultimate list of potential insiders, the time span over which to focus the investigation, and the correlation of decision making points in the corporate process with the dates (preceding first publication) on which the security’s trading exhibited aberrational volume and/or price movement before first publication of news.

- h. The analyst’s investigative report should recite the relevant facts in terms of when the corporate information became sufficiently certain as to constitute inside information; the identities of insiders (including relatives and nominees) who traded ahead of first publication and a chart showing when and how much they purchased and the potential economic benefit for each one; and an assessment of any plausible defenses suggested by the information obtained. This information along with the analyst’s recommendation for disposition of the matter should be presented to the director for final review. If approved by the director, the matter would be referred to the Enforcement unit for further investigation to document the elements of the violation needed to sustain a successful enforcement action.

4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.

### C. Front-running Research Reports

1. *Description of violation:* This refers to the practice where a market participant obtains foreknowledge of an investment recommendation, and trades the targeted security on the “right side” of the market before that recommendation is published generally. Given the price collars that exist on the ASE, the violator who trades ahead of the research report is most likely to do so with large trades—or larger than normal trades in the security—to produce a suitable short-term profit.
  - a. In the case of an imminent publication of a “buy” recommendation, the participant seeks to profit by purchasing shortly before, and then selling shortly after the positive recommendation has been made and moves the security’s price accordingly.
  - b. In the case of an imminent change of an investment recommendation from “buy” to “hold” or an outright “sell”, the participant with foreknowledge will sell ahead of the recommendation’s publication to avoid a loss of value to a pre-existing long position in the security. In this scenario, the participant may or may not re-establish a long position after the security’s price has adjusted to reflect the negative investment recommendation.
  - c. For a violation to be evident, there must be a showing of: (i) foreknowledge of the investment recommendation on the part of the account holder who initiated the questionable trade; (ii) the derivation of an economic benefit from trading ahead of the recommendation’s publication; and (iii) the materiality of the recommendation itself, as evidenced by its promptly moving (either on the same day as publication or the next business day) the targeted security’s price in line with the substance of the newly-published recommendation.
  - d. The above-described trading could be regarded as a violation of Article (108) B of the Law. This provision makes it a violation for a person “...[to] us[e] inside or confidential information to attain material or moral gains whether for his own benefit or for the benefit of others....” Article (2) defines “**inside information**” as “information relating to one or several issuers or to one or several securities which has not been made public and which, if it were made public, would likely affect the price of any such security....” Thus, the non-public investment recommendation would constitute a form of inside information, and trading on that information to generate a profit (or avoid a loss) – according to the scenarios described above in points a. and b. – can result in a violation of Article (108) B.



2. *Description of allocation of responsibilities:* Either the JSC or ASE may initially detect a suspicious pattern of trading immediately ahead of a newly-published investment recommendation. It is envisioned that the JSC will take the lead role in investigating all such matters.
3. *Description of the procedures for detection and investigation:*
  - a. The trigger event for launching a surveillance inquiry would be the issuance or publication of a new investment recommendation for the security of a particular ASE-listed company, followed by a consistent and material reaction in the security's market price. Thus, each analyst would check daily with the JSC Disclosure Department, a corporate news database (including news clippings), and the ASE web site for the publication of new investment recommendations regarding in his/her assigned securities. He/she would simultaneously look for the occurrence of a price aberration immediately after the recommendation's publication, which would demonstrate a material impact from the recommendation. (As a starting point, an aberration of at least 2% in the day's closing price from the previous day's close should be considered. The inter-day closing price variation could be derived from GL Trade system.)

Note: The JSE should survey its universe of licensed intermediaries to identify all who perform (either directly or through a third party) and publish investment research on individual ASE-listed companies. At least monthly, the JSE should gather the latest recommendations from the intermediaries, and capture the information in an internal database for regulatory purposes. This information might be classified as a subset of the issuer information that the JSE already collects via periodic disclosures made by public companies, or it might be incorporated into a data base of corporate news on ASE-listed companies. If necessary, the JSE should establish a filing requirement to ensure the capture of this investment research data from the community of licensed intermediaries. In this regard, it is important to capture the date and (if feasible) the time when each new recommendation was first published by the originating intermediary and the names of the registered persons involved in producing and reviewing the research recommendations prior to their initial publication.

- b. Once an analyst retrieves the new recommendation from the database, he/she should document the date and time of its first publication by the originating firm. If the time and/or date of first publication cannot be ascertained from the JSC's source material, then the analyst should contact the originating firm and document both the date and time that it first published the recommendation.

- c. Assuming that the 2% test in point a. above is satisfied, the analyst should check backward for large trades shortly before the time of the recommendation's first publication. The relevant time period could be up to three business days, including the date of first publication if it was possible to trade ahead of first publication on that date. Hence, the review period would normally be a maximum of three consecutive business days, including the date of first publication.
- d. News sources should also be checked for the review period to determine if there were any other material developments that could have impacted the security's price and volume patterns during that time, with particular attention to the occurrence of more large trades than normal. The news check would involve a review of information gathered by the JSC Disclosure Department, corporate news published on the ASE or JSC web sites, and any other news sources compiled by the JSC (e.g., news clips from the local newspapers).
- e. What constitutes a "large trade" in the subject security during the review period will require looking back over the preceding 20 to 30 business days and calculating the average daily trade size, and average daily share volume (excluding the block sessions) over that period. These derived statistics will serve as benchmarks for assessing the average size and significance of large trades found during the review period. This data can be derived from the daily transaction information captured in the MIS.
- f. Attention should be given to large trades (on the "right side" of the market vis-à-vis the investment recommendation) that were executed within the review period, particularly those executed by the intermediary firm that originated the investment recommendation under review. These trades should be listed in time sequence for each trade date of the review period. If the questionable trades were executed elsewhere, limit the scope of the review to those trades that showed the greatest profit potential (e.g., at least 5,000 JD) given their size and close proximity in time to the first publication of the investment recommendation.
- g. For each trade identified in point f., identify and list the NIN and names for each account holder by using the SDC SCORPIO System, and compare this list of names/NINs to those of the officers, directors, and registered persons of the firm that originated the investment recommendation. (This process will require the separate step of obtaining a list of the names of registered persons at the firm from the JSC Licensing and Registration Department.) Repeat this process for the directors and principle officers of the corporation whose securities were the subject of the investment recommendation. (The names of the corporate insiders

should be available from the JSC Disclosure Department, with the source document being the company's most recent annual report.) If a particularly large and advantageous trade has occurred but cannot be attributed to one of the insiders at the originating firm or the affected issuer, the analyst should take the additional step of accessing the Civil Service system via SCORPIO to identify a possible family relationship between the account holder for whom the advantageous trade was effected, and one of the insiders identified above.

Note: If the firm that originated the investment recommendation is also licensed as a dealer, the analyst should look for the possibility of the firm trading for its own account, in the affected security ahead of its own recommendation to buy that issue. The economic motivation for this scenario would be the expectation of a surge in buy orders that pushes the stock's price upward, shortly after the firm publishes its latest recommendations. The firm would profit by filling such orders out of inventory at the higher prices stimulated by the its recent recommendation.

- h. Assuming that one or more of the comparisons made in point g. yield a match, document the date and time that the subject's order was placed in relation to the time of its execution ahead of first publication of the recommendation. This should be accomplished by requesting a photocopy of the client's trade authorization and the corresponding order ticket. Separately, the analyst can use the Market Replay tool to document the timing of the order's entry and execution on the ASE.
- i. To document the potential economic gain for the party who had traded ahead of the positive recommendation, use the SCORPIO System to determine whether the account holder liquidated (or substantially reduced) the position shortly afterward, on the same business day as the first announcement, or at the opening of the next business day. In the case where a party sold out of a long position ahead of the negative recommendation, the relevant benchmark is the security's market price (e.g., last sale price) immediately before and after announcement of the negative recommendation. Proof of a violation does not require that the person who sold ahead re-established his/her position in the security at the lower prices caused by the negative recommendation.
- j. Based on the results of the analyses performed under points g.- i. above, the analyst should be able to determine if a prima facie case of a violation exists. The key factual evidence should be captured in an investigative report, and based on that information, the analyst should make an appropriate recommendation to the Department Director for disposition of the case (e.g., close without further action or refer to Enforcement

Department). This information will be memorialized in a closing report prepared by the surveillance analyst and sent to the Department Director.

4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.

#### **D. Pump and Dump Fraud/Price Manipulation**

1. Description of violation: This refers to the practice of stimulating buying interest in a security by disseminating false or misleading claims about the product(s) or the business prospects of an issuer. This intense sales campaign constitutes the “pump”, and its success is manifested by a sharp increase in the daily transaction volumes and prices of the target company’s security over several consecutive trade dates. Typically, the scheme concludes with a cessation of the sales campaign and an abrupt decline in the security’s market price. At this point, the parties behind the scheme will have taken profits by selling shares under their control into the demand that they had created by pumping the stock, and at the higher prices that also resulted from the sales campaign. The entire scheme may start and finish in relatively short period, i.e., between one and four weeks. The “pump and dump” strategy is most likely to occur in less liquid securities that have a relatively low unit price. Securities that match this profile should be closely monitored for the possibility of a pump and dump scheme.
  - a. The scheme will manifest itself in the form of unusual upward price movements over consecutive trade dates that are accompanied by aberrant transaction volumes. Daily share and transaction volumes will normally be concentrated at a single intermediary firm (and possibly a second firm) that is orchestrating the sales campaign. In the case where two firms are dominant, one is likely to be facilitating the scheme, perhaps by effecting wash sales with the first firm in to give a false impression of active trading in the targeted security.
  - b. Upon review, the claims being made to “pump up” the stock cannot be supported on the basis of the most current corporate disclosures made by the issuer in its routine filings with the JSC (including a review the company’s recent financial performance), or by reliable news reports or published studies about the issuer, its peers, or its industrial group within the region. In some cases, the facts underlying the sales campaign may be difficult to verify because of geographic remoteness (e.g., the discovery of a major mineral deposit on a small island in the South Pacific or the alleged involvement of technical experts or a major new customer in a distant country). Such fact patterns can be another red flag indicating the perpetration of a pump and dump scheme.

- c. To support the finding of a violation, there must be a showing of: (i) an intentional or orchestrated effort to disseminate false/misleading information to investors about the targeted issuer or its business, (ii) that causes a sharp upward move in a security's price over a relatively short time period (e.g., five to ten consecutive trade dates), (iii) that enables the responsible parties to sell securities into the demand that they artificially created and at inflated prices, and (iv) that is followed by a downward adjustment of the security's price to a level consistent with the company's documented financial performance and legitimate prospects at the conclusion of the scheme.
  - d. The above-described pattern of trading could be regarded as a violation of Article (109) A of the Law which prohibits "*...any person to disseminate or promote rumors or to provide false or misleading information and data or statements which may affect the price of any security or the reputation of any issuer.*" Additionally, to the extent that the "pump and dump" scheme was orchestrated by a licensed or registered person, such person could be regarded as breaching Article (56) C. This provision prohibits a licensed or registered person from engaging in the practice of "*...deception, misrepresentation, or prohibited acts.*"
    - i. Article (2) defines "**deception**" as "*an act, scheme, device, practice or course of conduct likely to have the effect of misleading others or intended to mislead them.*"
    - ii. Article (2) defines "**misrepresentation**" as "*any untrue statement of a material fact, or any omission or concealment of a material fact or any other datum required to ensure that a statement made is true and accurate.*" Finally, Article (2) defines "**prohibited act**" as "*any action, practice, scheme, course of conduct, or device forbidden in this Law or the regulations, instructions or decisions issued pursuant thereto.*"
2. *Description of allocation of responsibilities:* Either the JSC or ASE may initially detect a pattern of trading indicative of a fraudulent "pump and dump" scheme. It is envisioned that the JSC will take the lead role in investigating such matters.
3. *Description of the procedures for detection and investigation:*
- a. The trigger event for launching a surveillance inquiry will be the generation of a price movement alert indicating upward price movement in a particular security over consecutive trade dates. This may be accompanied by a price limit alert showing that the security has traded up

to the maximum daily price limit, on one or successive trade dates over the same time period. These alerts will be derived from historical data captured through the GL Trade or MIS tools.

- b. The analyst should check the following sources to determine if there is a reasonable explanation for the alert situation:
  - i. corporate news compiled from local newspapers, publications, and the JSC and ASE websites;
  - ii. the issuer's most recent disclosure filings submitted to the JSC; and
  - iii. any published investment recommendation covering the subject security or its industrial group over the past 30 days.
- c. Assuming that no explanation is found from the sources referenced above in point b., the analyst should use the MIS to identify the intermediary firm responsible for the executing the largest percentage of transactions in the subject security over the time period covered by the alerts. Assuming that a dominant firm exists, it should account for at least 50% of the total transactions (regardless whether the firm is representing the buy or sell sides of the trades) on multiple trade dates within the review period. To put the firm's activity levels into perspective, the analyst should look back further – e.g., over the 20 business days preceding the date of the initial alert – to determine when the subject firm became the dominant participant. That date should closely approximate the beginning of the “pump” phase.
- d. Using the MIS, identify 10-20 client accounts that purchased significant amounts of the target security from the dominant firm over the time period covered by the alert(s). Using the SCORPIO system, identify the NINs and names of the beneficial owners of these accounts. Contact these persons by telephone and ask them (in a non-threatening manner) to explain the basis for their recent decision to purchase the subject security. Take note of responses that indicate that a client's transaction(s) was (were) induced by aggressive sales tactics and/or an extraordinarily positive story about the subject company. Ask the client for the names of any persons who represented the intermediary and provided the client with information or data that helped to induce his/her transaction(s), and a description of such data or information (e.g., news releases about the issuer or an internal research report at the intermediary firm). Finally, ask these clients to put their responses into writing, or to visit the JSC in the near term to confirm their telephonic responses. This last step should be coordinated with the JSC's Enforcement Department.
- e. Based on the information gathered in point d., contact the intermediary firm identified by the clients as providing information that induced their purchases of the target security.

(This should be the same firm that accounted for the largest number of transactions in the target security, on most days, during the review period.) Request that the intermediary firm provide a written explanation for its dominant activity and copies of any advertising or promotional materials (including photocopies of sales scripts) that the firm's brokers may have used to stimulate the clients' buying interest in the subject security over the review period.

- i. Once received, compare the substance of these promotional materials to the target company's most recent financial disclosure and news filings submitted to the JSC and ASE. (The objective is to verify the absence of independent data/facts to substantiate the overly optimistic claims found in sales/promotional materials or to support strong buy recommendations authored by the intermediary firm.)
  - ii. In lieu of requesting the sales materials and other information by telephone, the Department may find it more efficient to send one of its staff to the firm's main office to gather the necessary information and documents.
- f. Assuming that a pump and dump pattern has emerged, it is also important to identify the sources of the shares being sold to satisfy demand that was artificially stimulated. In theory, the owners of these shares should comprise parties that had a financial stake in the success of the pump and dump scheme, and who, therefore, may have conceived this fraudulent strategy.
  - i. For this purpose, use the MIS to select a sample of the 15 largest transactions by value (on each trade date under review) in which the dominant intermediary supplied the buy side of the transaction on an agency basis. Using the SCORPIO System, obtain the NINs and names of the beneficial owners of the shares being sold to satisfy the 15 largest buy orders that comprise each day's sample. Look for relationships between those selling parties and the registered persons of the dominant intermediary firm. (A current list of registered persons should be accessible from the database of the JSC Licensing and Registration Department.) Additionally, check for relationships among the selling shareholders to officers and directors of the issuer. The issuer information should be accessible from the data base maintained by the JSC Disclosure Department.
  - ii. Note and document all relationships found on the basis of this review, and the aggregate amount of shares supplied by each of the "related" sellers during the review period. This day-by-day analysis

should extend to the date when the target company's shares adjust downward, signaling the apparent end of the fraudulent scheme.

- g. To summarize, the foregoing steps seek to compile evidence showing:
  - i. the actual dissemination of false and materially misleading information about a company or its products/services (i.e., the pump),
  - ii. that stimulates buy-side interest and thereby drives the security's price upward,
  - iii. that enables certain parties behind the scheme (i.e., the promoters and sellers) to profit by liquidating their shareholdings at prices that were manipulated upward as a consequence of the pump,
  - iv. and the occurrence of a significant, downward adjustment in the security's price after the scheme had run its course. This information should be sufficient to show a prima facie case that a pump and dump manipulation has occurred.

- 4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.



## E. Insider Trade Reporting

1. *Description of the violation:* This violation occurs when an individual effects trades in securities for which he is obligated to report such transactions, but fails to do so. This type of trading violation could occur if the individual possesses inside information and wishes to hide the fact that he has traded on the basis of that information.

This type of trading would violate draft JSC licensing and registration instructions; this instruction was not final at the time of NASD's field visit.

2. *Description of allocation of responsibilities:* This type of violation could be detected by the JSC because of its access to SDC data. The JSC will, therefore, take primary responsibility for detecting such violations.

3. *Description of the procedures for detection and investigation:*

- a. There are three pre-requisite steps the Department must take to implement this aspect of its surveillance program.

- i. First, the Department's management must determine a schedule for conducting scheduled "sweeps" of trades by covered persons at listed companies. As a starting point, plan to perform a sweep on a listed company's covered persons once a year. This could be accomplished by, for example, performing a sweep on four listed companies per week. Management can adjust the schedule as it sees fit.
- ii. Second, the Department must a) obtain a current list of the listed companies firm employees' names and national identification numbers (NINs) from the Disclosure Department and b) establish a process with this department to update these lists regularly (perhaps on a monthly basis) so that they are reasonably current.
- iii. Third, the Department must be able to review filings by insiders of their trading activities in the relevant securities.

- b. There are two triggers for this particular type of surveillance: a) a scheduled "sweep" of listed companies or b) a tip or other information that suggests that a covered person has effected trades without filing the proper notification with the JSC.

- c. For the regularly scheduled sweep, the analyst should input the NINs of the relevant listed companies' covered persons in the SCORPIO system and review these individuals' trading in the relevant security (ies) for the past twelve months. (If management decides to change the frequency of sweeps, the review period should be similarly adjusted, e.g., six-month review period for semi-annual sweeps or three months for quarterly

sweeps.) The analyst should compare the trade(s) in the relevant security (ies) with the trade reports filed by the individual. Based on this comparison, the analyst should determine if the individual effected trades that should have been reported, but were not. If the analyst identifies such trades, proceed to step e. below. If not, the review for the particular individual is complete and the analyst should proceed to review the next person.

- d. In the event of a tip or other event gives rise to suspicion that a individual may have traded without filing the requisite report with the JSC, the analyst should determine the individual's NIN using the list from the Disclosure Department. The analyst should then use the NIN to query the SCORPIO database to review the individual's trades over the previous year. If the analyst identifies trades executed in the relevant security (ies) which were not reported to the JSC, proceed to step e. below. If not, the review for the particular individual is complete, and the case can be closed.
  - e. The analyst should document the pertinent details of each trade that was transacted without being reported to the JSC. This documentation should include, the date and time of the trade(s); the name, quantity, and value of securities involved; and the brokerage through which the trade(s) was effected. The analyst should also consider expanding the scope of the search, i.e., review for a longer period of time, to assess whether the individual may previously have engaged in trading activity that was not properly reported. This activity, too, should be documented and attached to the closing report.
4. Description of information needed to summarize the case: See Appendix A, Trading Inquiry Report.

## **F. Front-running Client Orders**

1. *Description of the violation:* This violation occurs when a licensed intermediary trades ahead of a client's order that the firm had accepted, but not yet submitted for execution. The unexecuted order will normally be a large or block-size order that is likely to move the security's price, at least temporarily, when exposed to the market and executed. Hence, it is the receipt of the large customer order that presents a potential front-running opportunity. The intermediary seeks to take advantage of this non-public order information in three steps: (1) executing a trade for his own account (or the firm's proprietary account if the firm is licensed as a dealer) on the same side of the market (e.g., buy side) as the client's unexecuted (buy) order, (2) executing the client's order, and (3) then promptly closing out the position established in the first step at a profit created by the market movement caused by executing the client's order. The illicit profit may benefit the executing broker's personal account or the proprietary account of licensed intermediary for whom he works.
  - a. The scheme will manifest itself in the transaction audit trail (provided by the MIS) of given security with a pattern of "buy, buy, and sell" trades executed in rapid succession by the same licensed intermediary, with the middle trade representing the execution of the client's large/block-size order that moves the market price upward from the immediately preceding trade. The intermediary profits by buying shortly before submitting to the market, and selling shortly after executing, the client's large/block size order that temporarily moves the market higher.
  - b. The same pattern may be found at progressively lower prices – a "sell, sell, and buy" pattern – where the intermediary takes advantage of the fact that a customer's pending sell order will temporarily depress the security's price. In this downward price scenario, the intermediary's trailing transaction may not occur unless he/she wishes to re-establish a long position at a lower basis price. Nonetheless, the economic benefit (and the potential violation) derives from the intermediary's selling ahead to avoid a loss of value caused by the downward impact of executing the client's large or block size sell order.
  - c. The forgoing trading patterns would constitute potential violations Article (108), subparts A or B, and Article 57 of the Law.
    - i. Article (108) A states that it is a violation to trade in securities on the basis of inside information, while subpart B makes it unlawful to use inside or confidential information to attain material gain, whether for

the trader's own benefit or another party's benefit. Article (2) defines inside information to include information relating to "one or several securities which has not been made public and which, if it were made public, would likely affect the price of the security."

- ii. In a front-running scenario, the inside or confidential information consists of the size and other terms of the order that the client has just placed with the intermediary for execution. The latter violates Article (108) by using that non-public information to "front-run" and thereby gain a profit for himself or another party (e.g., a relative's account or the firm's proprietary account).
  - iii. Front-running a client's order can also be viewed as a violation of Article (57). This Article requires that licensed/registered persons act "... with loyalty and dedication so as to maximize their clients' interests, realize their clients investment objectives, and refrain from discriminating between clients...or otherwise engaging in fraudulent and deceptive practices." Thus, when a broker trades ahead of his client--whether to benefit his own or the firm's account--the broker breaches the duty of loyalty owed to the firm's client under Article (57). A violation of Article (57) would be additive to a violation of Article (108) in a typical front-running case.
2. *Description of allocation of responsibilities:* Either the JSC or ASE may initially detect a pattern of trading indicative of a front-running scheme. It is envisioned that the JSC will take the lead role in investigating such matters.
3. *Description of the procedures for detection and investigation:*
  - a. The trigger event will be the execution of a large client order (at least 10,000 JD in value) at a price at least 2% above the immediately preceding transaction in the case of a buy-side transaction (or 2% below the immediately preceding price in the case of a large client sell order). These large or block size orders can be isolated by (i) scanning the transaction audit trail (provided by the MIS tool) for individual securities to identify executed orders that meet the 10,000 JD/2% parameters, and (ii) recording the execution details of those orders from the MIS, i.e., price and size, buy or sell, execution time, and identifying number of the licensed intermediary that submitted this client order for execution. (It will probably be necessary to use the Market Replay tool to confirm positively which licensed intermediary involved in the transaction originated to the large client order.)

*NOTE: The value parameter used as the trigger event should be based on what constitutes a large order in each individual security, based on historical trading statistics for that security over the preceding six or twelve months. Once set, these parameters should be reviewed and adjusted, if necessary, on an annual basis. The parameter suggested above is a starting point and represents a value figure somewhat below the value of a block trade as defined by the ASE.*

- b. If the licensed intermediary identified in point a. holds a dealer license (as determined by referencing the JSC licensing and registration data base), then the analyst should use the MIS tool and SCORPIO (to obtain the firm's NIN number) to determine if that dealer traded for its own account shortly before and then shortly after executing the client's large or block size order. (To avoid exposure to market risk, the trades effected for the firm's dealer account would normally be executed no more than 30 seconds before and after the execution time of the client order in question.) If so, the time of execution and price and size terms of both proprietary transactions should be recorded on a work sheet and compared to those of the executed customer order.
- c. The data captured in point b. should reveal a "buy-buy-sell" pattern (or a "sell-sell-buy" pattern in the case of a customer sell order) with the first and third trades being done at favorable prices for the firm's dealer account and the middle trade – which temporarily moves the market price – being executed by the same firm as agent for its customer.
- d. If a potential front-running violation is detected, repeat the analysis in points a.-c. for the same firm in the subject stock, and in others in which the firm ranked among the top five firms based on executed share volume, over the preceding five business days. The objective is to find and document multiple instances of front-running by the same firm to generate illicit profits for its dealer account.

*Note: Evidence of multiple, apparent front running violations by a particular firm serves to demonstrate willful action or intent to commit the violation. This inference of intent is reinforced by a showing of profit obtained from each instance of front-running by the firm for the benefit of its dealer account.*

- e. The analysis described in points a.-d. above targets intermediary firms that hold dealer licenses. It is also possible for an agency firm to front-run a large customer order for the benefit of a "client" account that belongs to a registered person at the intermediary, including the personal account of the registered broker handling the customer order.

- i. To address this scenario, the trigger event can be the firm's execution of a large or block size order for one of its customers that meets the parameters set forth in point a. above.
  - ii. Using the transaction audit trail provided by the MIS tool, the analyst should look for the same intermediary's involvement in buy and sell (or sell and buy) trades executed no more than 30 seconds before and after the execution time of the large client order that triggered this review.
  - iii. If that pattern is found, the analyst should use the SCORPIO tool to identify the name and NIN of the beneficial owner of the client account in question. To constitute an apparent front-running violation, the same NIN must be associated with the buy and sell trades that "bracket" the large customer order to capture an economic benefit from price movement caused by that order.
  - iv. Next, check the JSC licensing and registration database to determine if the subject NIN corresponds to that of a registered person employed by the licensed intermediary.
  - v. If so, the matter should be treated as a potential violation, and the times and execution terms of the covered trades should be recorded on a work sheet showing the "buy-buy-sell" (or "sell-sell-buy") pattern, and amount of the gain obtained by the person associated with the NIN who front-ran the customer order.
  - vi. Repeat this analysis in other stocks during the preceding five business days in which the same NIN is shown to be executing intra-day trades to buy and sell (or sell and buy) over short time intervals. (This information should be accessible by using the SCORPIO tool and searching for patterns of day trading by the previously identified NIN.) If that pattern is found, then check the MIS for large or block size orders on the same trade dates, whose execution time is in between the execution times of the trader's own trades. Document all apparent front-running violations found.
- f. Because timing is a key element in showing a front-running violation, the firm(s) potentially identified as violators should be requested to furnish order tickets and customer authorizations for each of their trades involved in the "buy-buy-sell" or "sell-sell-buy" patterns that have been detected. These data should reinforce the sequencing of the suspect trades, and may include time stamps indicating when the firm initially received the large customer order that presented the opportunity for front-running.

- g. After completing the steps in points .a through .f, the Department should send the affected firm a letter that highlights the questionable trading patterns and requests an explanation of each situation. The substance of the firm's response should be reflected in the analyst's investigative report.
- 4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.

## G. Trading Away

1. *Description of the violation:* Trading away” occurs when a broker (in this section the term “broker” refers to a registered natural person) executes a trade for his personal account through a brokerage firm other than the firm for which he works. This type of trading could occur if the broker wishes to conceal his trading activity from his employer, perhaps because he is making use of material inside knowledge acquired through his employment.

This type of trading would violate Article 16 of the Directives for Trading in Securities at Amman Stock Exchange/Securities Market for the Year 2000.

2. *Description of allocation of responsibilities:* This type of violation could be detected by the JSC because of its access to SDC data. The JSC will, therefore, take primary responsibility for detecting such violations.
3. *Description of the procedures for detection and investigation:*
  - a. There are two pre-requisite steps the Department must take to implement this aspect of its surveillance program.
    - i. First, management must determine a schedule for conducting scheduled reviews – or “sweeps” – of trades by brokerage firms’ employees. As a starting point, plan to perform a sweep on a firm’s employees twice a year. This could be accomplished by, for example, performing a sweep on two firms per week. Management can adjust the schedule as it sees fit.
    - ii. Second, the market surveillance unit must a) obtain a list of brokerage firm employees’ names and national identification numbers (NINs) from the JSC’s Licensing Department and b) establish a process with this department to update the lists regularly (perhaps on a monthly basis) so that the lists are reasonably current.
  - b. There are two triggers for this particular type of surveillance: a) a scheduled “sweep” of the broker(s) or b) a tip or other information that suggests that a broker has effected trades through an entity other than his employer.
  - c. For the regularly scheduled sweep, the analyst should input the NINs of the relevant brokerage firms’ staff in the SCORPIO system and review their trading for the past six months. (If management decides to change the frequency of sweeps, the review period should be similarly adjusted, e.g., one year review period for annual sweeps or three months for quarterly sweeps.) The analyst should determine whether any trades occurred through brokerage firms other than the employee’s employer. If



the analyst identifies such trades, proceed to step e. below. If not, the review for the particular broker is complete and the analyst should proceed to the next broker.

- d. In the event of a tip or other event gives rise to suspicion that a broker may have traded away, the analyst should determine the broker's NIN using the list from the Licensing Department. The analyst should then use the NIN to query the SCORPIO database to review the broker's trades over the previous year. If the analyst identifies trades executed through a brokerage firm other than the broker's employer, proceed to step e. below. If not, the review for the particular broker is complete, and the case can be closed.
  - e. The analyst should document the pertinent details of each trade that was transacted through a brokerage firm other than the employee's firm. This documentation should include, the date and time of the trade, the brokerage through which it was effected, the broker's employer at the time the trade was executed, the value of the trade, and the security(ies) involved. The analyst should also consider expanding the scope of the search, i.e., review for a longer period of time, to assess whether the broker may previously have engaged in trading away activity. This activity, too, should be documented.
4. *Description of information needed to summarize the case:* See Appendix A, Trading Inquiry Report.

## H. Wash Sales/Pre-arranged Trades

1. *Description of violation:* Wash sales consist of transactions in which there is no actual change in the beneficial ownership of securities. An example would be a buy order from customer A that is matched against a sell order for customer A, with each order submitted by a different licensed intermediary. Another variant could be a buy order from customer A that is matched against sell order from customer B, a legal person controlled by customer A. A third variant would be customer A selling to its controlled person B, who sells the security back to customer A at the same or a slightly higher price. This and the second scenario are wash sales with the element of prearrangement between two distinct legal persons.
  - a. A frequent objective for engaging in wash sales is to inflate the trading volume of a security with virtually no market risk to the party(ies) orchestrating the scheme. The inflated trading volume creates a false impression of activity in the security that is intended to lure other investors into buying the targeted security in the very near term. This development causes the security's price to trend upward, in the absence of any major positive news about the issuer, its peers, or its industrial sector.
  - b. Wash sales and prearranged trades can be thought of as "tools" for effecting market manipulation. Hence, these specific trading practices are prohibited in nearly all countries.
  - c. Wash sales and prearranged trades done for manipulative purposes will usually occur in rapid succession to minimize market price risk to the parties behind the scheme, and to eliminate, as much as possible, the possibility for interaction with other legitimate orders resident in the market's central order book. For example, a wash trade may be effected at a price slightly above the top of the book on the buy side of the market, but below the price of the lowest sell order being displayed at the time.
  - d. Engaging in wash sales or prearranged trades that amount to wash sales would be a violation of Article (109) B of the Law. This provision makes it unlawful for any person, "...[acting] solely or in collusion with others, to effect any transaction in securities with the intention of creating a false impression of the price or volume of trades of a security or any related security."
2. *Description of allocation of responsibilities:* Either the JSC or ASE may initially detect a pattern of wash sales or similar prearranged trades. It is envisioned that the JSC will take the lead role in investigating such matters.
3. *Description of the procedures for detection and investigation:*

- a. The prime trigger event for launching an inquiry into a wash sales scheme would be the SDC's notice sent to the JSC indicating rejection of a reported transaction because it constitutes a wash sale. The SDC notice should specify the name and symbol of the subject security, date and time of the transaction, the intermediary involved (identified by name and NIN), and the account holder – e.g., client or dealer account – involved, (identified by NIN and name). A stronger case may be indicated if the analyst also receives a volume alert for the same security for the date(s) when one or more wash sales actually occurred.
  - i. Depending on the number of notices received from the SDC, these could be analyzed by a Department analyst once every two weeks or perhaps even once per month.
  - ii. This analysis should focus on detecting a pattern of multiple wash sale transactions effected by a particular market participant in a single stock or a small group of stocks. This pattern can be documented by creating a spread sheet that shows for each market participant identified (by name and NIN) in the SDC report, the security identifier, trade details (price and size), date and time of execution, and name and NIN of the account holder for whom the offsetting orders were entered and matched to produce a wash transaction.
  - iii. Assuming that the foregoing analysis reveals a pattern of multiple wash sales in a particular security over a one-month period or less, this may indicate a scheme to manipulate volume or price in the security. To test this hypothesis, it is necessary to assess the potential impact of the wash sales on the targeted security's trade volume and price during the applicable period under review.
  - iv. Using the GL Trade tool to derive data,
    - Calculate the security's average daily share volume and turnover value for the period during which the wash sales occurred and compare those figures to the average daily volume and turnover values in that security for the preceding 30 and 60 days. Note any significant upward move in average daily volume (e.g., 30%-50%) and turnover (30%-50%) of the security that might have been facilitated during the time period by the potential wash sales. The object of this step is to define the time period during which the wash sales may have artificially inflated the security's daily volumes.

- Calculate the relative impact of the wash sales on daily volume by calculating the magnitude of the wash transactions as a percentage of the actual daily share volume and turnover in the security for each trade date when a wash sale actually occurred.
  - Calculate the security's high-low trading price range for the entire period over which the wash sales had occurred. Do the same calculation for the preceding 30 and 60 day periods before the wash sale activity first began in the subject security. Finally, compare this historic price range data to the highest and lowest prices at which wash trades were effected across the entire review period. The objective of this analysis is to show whether the wash sales were done at increasing prices, which would tend to indicate a potential price manipulation scheme.
- v. For the time span covered by the wash sale activity and the immediately preceding 30 days, check the JSC's data base of corporate filings, news releases by the issuer (published on the JSC and ASE web sites), and business news generally (e.g., the JSE news clips) for possible explanations of the surge in volume or turnover in the subject security.
  - vi. Assuming that the analyst finds both a pattern of wash sales and a possible nexus between those transactions and the security's aberrant price/volume movement, the analyst should use the MIS and SCORPIO tools to identify the market participants (i.e., firms and clients) who accounted for the largest percentage of share volume and turnover in the subject security over the same time period. Using SCORPIO, the analyst should identify the names and NINs of those market participants and compare the names on that list with the names and NINs of the participants for whose accounts the wash sales were done. If there is a substantial overlap, this would tend to evidence some sort of manipulative scheme being perpetrated, with wash sales being effected to advance the scheme for the benefit of the same parties who originated the wash sale orders.
  - vii. Upon finding the fact pattern described in point vi., the analyst should consult the director for authorization to prepare letters to the identified participants requesting an explanation of their activities, including the pattern of wash sales. The responses to those letters will materially contribute to the Department's deciding on final disposition of the case.

viii. To summarize, if there is a pattern of:

- wash sales attributable to certain persons who are also significant market participants in trading the target security, and
- the timing of the wash sales corresponds with a period of aberrant price and/or volume movement in that security (which cannot be explained by news), there is a high probability that the wash sales were effected with the intent to advance a strategy of market manipulation.

For example, the pattern of wash sales might be part of a “pump and dump” manipulation. In contrast, a pattern of wash sales with little or no evidence of market impact in the affected securities may simply indicate negligence in order handling, or an operational problem at the originating firm. This type of problem should be investigated further through an on-site inspection of the firm.

4. *Description of documentation to be provided to summarize the case:* See Appendix A, Trading Inquiry Report.

## **I. “Spoofing” or Manipulation by Entry and Cancellation of Orders**

1. *Description of Violation:* This violation involves a single market participant: (i) submitting a large, non-marketable limit order (i.e., the “spoof” order) for a security that sets a better top of the book price and/or greatly increases the quoted size at or around the current best price, (ii) with the intent of inducing other market participants to match or better the price the spoof order, and (iii) then canceling the spoof order and entering (virtually simultaneously) an order that matches the order(s) induced into the market by the cancelled spoof order.
  - a. If successful, this scheme allows the moving party to capture a better execution price for his real order – the second order not the “spoof” order – than would otherwise be the case. This strategy succeeds only when other market participants respond to the brief display of a large spoof order by entering orders on the same side of the market that either match or improve on the price of the spoof order.
  - b. Capturing the economic benefit behind the scheme normally requires the moving party to cancel the spoof order just before (or at the same time as) executing his/her real order, to avoid potential liability from someone else transacting against the spoof order. Thus, a successful spoof order achieves a temporary market manipulation whose benefit must be captured by entry and execution of a second order (by the same party) on the opposite side of the market.
  - c. The manipulative effect is normally very brief, and sometimes, success requires the entry and cancellation of multiple spoof orders. If this pattern can be documented, it is further evidence of an attempt to manipulate the market.
  - d. One variant of spoofing involves the entry and cancellation of large orders during a brief interval (perhaps two minutes or less) just before the pre-opening session closes and the trading system calculates the security’s opening price. The objective in this scenario is to manipulate the security’s opening price, as a consequence of inducing other market participants to adjust the prices of pre-existing orders or to submit new ones that will alter the opening price calculation. One way to accomplish this goal is to enter a very large sell limit order one price increment above the order book’s lowest current sell side price. This suggests to the market that significant selling interest exists and this perception may well induce sellers to submit new limit orders at lower prices that reduce the spread between the lowest sell and highest buy-side prices displayed in the order book. This conduct will in turn affect the opening price calculation and could yield a more favorable execution price to a buy-side market order or a buy-side order conditioned to execute at the opening price set by the trading system.

- e. The course of conduct described above would most likely constitute a violation Article (109) B of the Law which prohibits any person "...[acting] solely or in collusion with others, to effect any transaction in securities with the intention of creating a false impression of the price or volume of trades of a security or any related security." Reliance on Article (109) B would require the JSC to interpret the phrase "any transaction in securities" to include the actions of order entry and cancellation, in addition to order matches that produce binding settlement obligations.
2. *Description of allocation of responsibilities:* Either the JSC or the ASE may initially detect questionable patterns of order entry and cancellation. It is envisioned that the JSC will take the lead role investigating such matters.
  3. *Description of the procedures for detection and investigation:*
    - a. Potential order-based manipulation scenarios are most likely to be observed by the ASE and reported to the JSC. (This circumstance should change when the MAS tool is more fully developed so as to allow the JSC to generate its own alerts for this sort of activity.) Given this circumstance, the ASE should submit a report on this type of activity every two weeks or perhaps monthly. This type of report cycle increases the likelihood of being able to show a pattern of potential violations by a given market participant.
    - b. Accordingly, it should be assumed, for the present time, that receipt of an ASE report will be the trigger event for launching a surveillance inquiry into possible price manipulation by entry and cancellation of orders by a particular market participant.
    - c. The JSC report should reveal the fact pattern whereby a particular market participant has entered and cancelled orders for the same account, in close time proximity (2 minutes or less) just before the end of a pre-opening session. The ASE report should show the pertinent details, namely a pattern of order entry and cancellation on one side of the market (e.g., sell side) followed in very close time proximity same party entering and executing an order on the opposite side of the market (e.g., buy side). The ASE report should include a reconstruction of the intermediary's order activities, with timings, based on the market replay feature. The ASE's report should also provide the intermediary's name, the registered broker handling the order, the type of account for which the orders were entered/cancelled (i.e., customer or proprietary), and the name of the licensed intermediary and reference number for the account (if it was a customer account).

- d. For each situation identified, the JSC analyst should independently use the market replay feature to validate the likelihood of misconduct, based on the sequencing of the order entry and cancellation events, the pricing of the spoof order in relation to the top of the book prices at the time of its entry and also at its cancellation, and the top of the book prices at the time that the same market participant entered and executed his “real” order.
- e. Additionally, the analyst should attempt to calculate the economic benefit to the moving party. In connection with a market opening, this would mean documenting the theoretical opening price of the security immediately before the entry of the spoof order vs. the theoretical opening price (or actual opening price) immediately after the spoof order was canceled and the real order was executed. The objective of this analysis is to show that the entry and cancellation yielded a quantifiable benefit to the responsible beneficial owner of the account involved. Once again, the Market Replay tool would be the key to illustrating the questionable conduct and the economic motivation.
- f. For the account identified as being the beneficiary of the spoof activity, the analyst should use SCORPIO to document the account holder’s position in the security immediate before and then after the spoof activity concluded. Thus, if the account had a zero or small position beforehand but still entered a large sell order, that raises the prospect of illicit short selling or some type of fraud against the SDC’s rules.
- g. If the same licensed intermediary is identified on multiple dates covered by ASE report, then the same analysis set forth in points d.-f. above should be performed for each instance. Repetition of the same conduct on multiple trade dates makes a potentially stronger case by showing intent and cumulative economic benefit.
- h. The final step is to identify the beneficial holder of the account for which the spoof order was placed and the “real” order executed. This can be done using SCORPIO. If this account is a client account of the originating intermediary, then the analyst should also request the customer authorization records corresponding to each order and action taken, i.e., the entry of the spoof order, cancellation of that order, and entry of the subsequent order contemporaneously with the cancellation of the spoof order. This paper trail is important to help fix responsibility for the scheme in the first instance.
- i. At this point, the analyst should report his/her findings to the Department Director and agree on the content of letters to the intermediary and the client requesting an explanation for the apparent spoof scenario. An



Enforcement attorney also could be invited to this meeting to ensure a request for appropriate evidence to support potential charges.

- j. The substance of the responses to these letters will be incorporated into the final report which supports the final disposition of the case.
  - k. In sum, the objective is to show a pattern of spoof order activity – two or three instances – and quantifiable economic gain. In all likelihood, this scheme is only feasible if the parties are using large or block-size orders as the spoof orders, in order to obtain a more favorable execution price on another order of comparable size and value.
4. Description of documentation needed to summarize the case: See Appendix A, Trading Inquiry Report.

## **J. Price Manipulation/Market Domination**

1. Description of the violation: Market price manipulation can take many forms. One common strategy involves market domination over a specific time period. In its most basic form, market domination is characterized by a single intermediary executing a disproportionate volume of trades (typically on the buy side) in a single security on behalf of a single customer or for the firm's own account (assuming that the intermediary has a dealer license). Another variant would have the "dominant" customer using multiple intermediaries, or multiple trading accounts under his/her control so as to make detection more difficult.
  - a. Often, the domination is part of a scheme to gradually manipulate the target security's price upward, attract additional buy side interest (e.g., through aggressive sales tactics and exaggerated claims about the issuer's prospects published in research reports) and then liquidate a long position into the demand that was created artificially.
  - b. Another economic motivation could be to stabilize a security's price at or near a specified level, because the trader has pledged his/her holdings as collateral and seeks to avoid a call for additional margin from the lender. Yet another motive for domination could be to manipulate the security's price upward to discourage a hostile takeover, or to obtain more favorable terms in a friendly takeover.
  - c. In the case of an intermediary firm that holds a large proprietary position in a security, the firm may seek to dominate the market and peg the security's value at a particular level to ensure that the firm satisfies its capital requirements.
  - d. As with other forms of market manipulation, domination takes the form of a course of conduct that interferes with the market's price-setting function. As such, this interference creates a false impression of the market for a particular security.
  - e. Manipulation through market domination would constitute a violation of Article (109) B of the Law. This provision prohibits any person "...[acting] solely or in collusion with others, to effect any transaction in securities with the intention of creating a false impression of the price or volume of the trades of a security or any related security." Another potential legal basis for reaching a market domination manipulation can be found in the broad language of Article (107) D of the Law which prohibits "...any deception... relating to securities or any prohibited act relating to licensed activities in accordance with the provisions of this Law." Article (2) defines "deception" as "an act, scheme, device, practice or course of

conduct likely to have the effect of misleading others or intended to mislead them.”

2. Description of allocation of responsibilities: Either the JSC or ASE may initially detect a market-domination type of manipulation. It is envisioned, that the JSC will take the lead role investigating such matters.
3. Description of the procedures for detection and investigation:
  - a. The trigger event for launching a surveillance inquiry would be a pattern of price alerts indicating that a security’s price movement achieved the 5% limit in at least two of the preceding five trading sessions, or 5 out of the past 10. A further alert could be the security’s setting a new high price (either at the close or intra-day) in relation to its price performance over a rolling period of either six or twelve months. (The GL Trade data base and MIS should be capable of providing the historical data needed to generate the alerts.)
  - b. Upon receiving the alert, the analyst should search the JSC’s corporate news resources and the issuer’s most recent financial filings to determine if there have been any corporate developments that might explain the stock’s recent behavior. The search for news should cover at least the preceding 30 calendar days.
  - c. Assuming no definitive news, the analyst should use the MIS tool to identify and document the firms that accounted for at least 50% of the issue’s daily share volumes, for the time period covered by the alert. Check backward an additional 30 days to determine if the dominant firm was still responsible for a significant portion of the security’s daily trade volumes.
  - d. If a dominant firm is found, use MIS in combination with Scorpio to determine the names and NINs of the accounts for whom the dominant the firm is purchasing shares. At a minimum, check the accounts of the ten largest clients that had purchased shares of the target company through the intermediary during the review period. Again, using the SDC database, document the daily positions the ten largest account holders who had purchased through the dominant intermediary. List the clients’ names and NINs in a spreadsheet and show their end of day positions in the target stock for the period under review.
  - e. Cross-reference the names and NINs determined in point d. with the names/NINS of registered persons associated with the intermediary or the target company. Note any matches on the spreadsheet.

- f. Issue letters to the purchasers identified in point d. and ask them to explain the basis for their recent buying interest in the subject security. Simultaneously, issue a similar letter to a senior officer (e.g., Chief Executive Officer or Chief Compliance Officer) of a dominant intermediary ask for an explanation of its dominant trading pattern in the security.
- g. Check the most recent financial statements filed with the JSC by the dominant firm to assess its current financial condition and whether it had any proprietary holdings in the subject company. Likewise, if the firm produces research reports, request any reports that covered the target company or possibly another in the same industrial sector.
- h. Based on the responses received, attempt to document which market participants had an economic incentive to push the security's price upward. This may entail another check of the JSC's records, for example, to verify whether a lien or pledge exists against the positions of any traders noted earlier, which would indicate that the securities were pledged as collateral. Similarly, if corporate insiders are buying the stock, verify that they have complied with the JSC's reporting requirements; separately, contact the issuer's compliance officer about the existence of any news that has not yet become public. Finally document any actions taken by the intermediary who was dominant that may have induced buy-side participation by its clients.

Note: Experience reveals that a pattern of concentrated buy-side activity through a particular intermediary may signal the occurrence of illicit trading on inside information rather than a market manipulation scheme. Hence the Department analyst should be alert to this possibility and contact the issuer about the existence of pending corporate news before completing his/her investigative work on the matter.

- i. In summary, to support a probable finding of price manipulation by market dominance, it is essential to gather evidence showing that the account holders who accumulated shares via the dominant intermediary traded in a manner that : (i) actually impacted the security's market price, i.e., causing it to trend upward and/or set a new high (either for a rolling six-month or one year period) and (ii) that this behavior was motivated by an actual or potential economic benefit. These factors and the underlying documentation and trade data should be linked in the analyst's investigative report.
4. Description of information needed to summarize the case: See Appendix A, Trading Inquiry Report.

## Appendix A: Form Trading Inquiry Report

Below is a suggested template for a Trading Inquiry Report that would be produced to document the conclusion of a routine trading inquiry by the Department. These data elements could be used for all types of trading inquiries. Over time and based on actual experience, it may prove more efficient to customize this report and/or produce second report that is used exclusively for inquiries into insider trading.

### Trading Inquiry Report

Security Name and Symbol

Analyst Name

Date of Report

Final Disposition and Date: (Referred to the Enforcement Department, \_\_\_/\_\_\_/\_\_\_\_.)  
(Closed without Further Action, \_\_\_/\_\_\_/\_\_\_\_.)

Authorized by: (Initials of Director)  
(Initials of Manager, if relevant)

### Background Analysis

1. *Date of beginning inquiry:* (i.e., date when staff reviewer has sufficient information to justify opening a file and conducting a further inquiry to find an explanation of the aberration found).
2. *Nature of potential violation found* (include citation to relevant provision of the Law and/or JSC regulation).
3. *Source:* (e.g., routine review for market manipulation by marking-the-close; referral of unusual trading in ABC stock by the Exchange; or routine review for illicit insider trading following an announcement of material news on month/day/year).
4. *Review period:* (e.g., all trading in ABC stock from \_\_\_\_ to \_\_\_\_.)
5. *Price movement summary over review period:* (e.g., high/low range of ABC stock's closing price during review period, number of times that security traded at maximum daily price range during review period, closing price of trading days immediately before and after a trading halt for material news and comparative price movement of the index in which the security was included during the review period).
6. *Volume summary and concentrations during review period:* (e.g., security's share volume, transaction volume, and/or turnover ranged as high as 200% above the security's corresponding historical daily average since listing on the ASE (or above the security's average daily figure for the 30 days immediately preceding the launch

of the review); two licensed intermediaries accounted for 80% of turnover and the bulk of this activity was attributable to five client accounts).

7. *Sources checked to find explanation for suspicious activity:* (summarize key results of this research from the following sources).
  - a. News sources (Y/N)
  - b. Recent trade halts for material news announcements
  - c. Recent issuer filings (Y/N)
  - d. Issuer web site (Y/N)
  - e. ASE/JSC Website (Y/N)
  - f. Issuer Contact (Y/N) (e.g., to request a chronology of events leading up to the announcement of material news; or to request a potential explanation for an unexplained price rise in the company's stock over the previous (insert applicable number) trading sessions).
  - g. Broker (Y/N) (e.g., checked supervisor of trading compliance at the two firms that accounted for 80% of turnover during review period to determine if anything unusual was found; requested customer account information and trading authorizations for five clients that accounted for more than 60% of the turnover attributable to the two dominant firms; spoke to the broker(s) who accepted the orders from these five customers to determine if these orders were consistent with the sorts of orders these five customers had placed with the firm since the accounts were opened; reviewed analyst recommendations and promotional materials from same firms).
  - h. Exchange surveillance unit (Y/N)
  - i. Depository (Y/N)
  - j. Prior investigative activity within the JSC involving suspicious trading in the same security during the preceding 6-12 months;
  - k. Other (Y/N)

#### Summary of the Reviewer's Findings

1. Summarize key facts that triggered the launch of the review, with appropriate references to dates, security name, and the key elements of the trading pattern that led the analyst to launch an inquiry for a possible violation of Article \_\_\_\_\_ of the Law and/or Section \_\_\_\_\_ of the \_\_\_\_\_ Regulations.
2. Identify the parties responsible for the questionable trading (i.e., for which accounts and beneficial owners were the purchase/sale transactions effected; based on the results of various inquiries, analyze and discuss the factual elements that could explain the trading as legitimate, or that tend to illustrate the occurrence of the trading violation(s) cited above. To the extent possible, the written analysis should include a discussion of the potential economic benefit or incentive that would accrue to the parties responsible for the unexplained or suspicious trading pattern.
3. If a legitimate explanation for the questionable activity cannot be found, this finding should be stated. This may be sufficient to justify referral of the matter to the Enforcement unit for further investigation. Nonetheless, the analyst should highlight

those factual elements produced by the review process that correspond to the legal elements of the potential violation that triggered the review in the first place. The missing elements should also be listed because these could become the focus of the Enforcement Department's review, assuming that a referral is ultimately made.

Recommended Disposition

List the Documents Attached that Support the Reviewer's Findings and Recommendation.

## **Appendix B: List of Persons Interviewed**

### **Jordan Securities Commission**

- Dr. Ahmad Mustafa, Deputy Chairman
- Dr. Abderrazaq Bani Hani, Commissioner
- Mr. Bassam Asfour, Commissioner
- Ms. Laila Ammari, Director, Capital Market Monitoring Department
- Mr. Hussein Abu Ayyash, IT Manager
- Ms. Toujan Shreideh, Adv., Head of Legal Department
- Selected surveillance analysts of the Capital Market Monitoring Department

### **Amman Stock Exchange**

- Mr. Jalil Tarif, Chief Executive
- Mr. Nader Azar, Assistant Chief Executive
- Selected staff of ASE Market Surveillance Unit

### **Securities Depository Center**

- Mr. Samir Jaradat



## Table of Contents

Table	Name	Purpose	Updtng Req*	AutoCalc**	AuthReqd***
1	Alert Manager	Establishes the parameters and thresholds that will trigger alerts	Periodic		x
2	Alert	Presents alerts on a company-by-company basis		x	
3	AlertDetails	Presents details on the triggering events for the alerts presented in the Alert table		x	
4	Dashboard	Provides overview data to facilitate analysis of alerts		x	
5	ClosingPrice	Presents closing price on a security-by-security basis	Daily		
6	CPChange	Calculates changes in closing prices based on ClosingPrice table		x	
7	TransVol	Presents daily transaction volume on a security-by-security basis	Daily		
8	SharVol	Presents daily share volume on a security-by-security basis	Daily		
9	Turnover	Presents daily turnover on a security-by-security basis	Daily		
10	ADTS	Presents average daily transaction size on a security-by-security basis		x	
11	Indices	Presents daily index position	Daily		
12	<b>IndexChange</b>				
13	Newsevent	Presents flag if news event occurred on a security-by-security basis	Daily		
14	CompanyCat	Categorizes companies by sector and other relevant characteristics	Periodic		x

## Notes

\* Updtng Req means updating required, i.e., the table needs data added to it on a periodic basis

\*\* AutoCalc means the table performs calculations without input required

\*\*\* AuthReqd means that changes to these tables can only be made with management approval

<b>Alert Manager</b>	
<b>Date</b>	09/29/05
<b>Price Movement Alert</b>	
Price movement threshold	15.00%
Day range	20
<b>Price Limit Movement Alerts</b>	
Price movement threshold	4.00%
5 day frequency threshold	2
10 day frequency threshold	5
30 day frequency threshold	10
<b>Volume Surge Alerts</b>	
1 month SD threshold	1.5
3 month SD threshold	1.5
12 month SD threshold	1.5
<b>Turnover Surge Alerts</b>	
1 month SD threshold	1.5
3 month SD threshold	1.5
12 month SD threshold	1.5

Explanatory Notes

- Establishes the threshold for a stock's movement above which an alert will be triggered
- Establishes the number of days over which a stock's price movements will be evaluated for triggering an alert
- Establishes the price movement percentage above which price movements will be counted
- Establishes the frequency with which the % price movement threshold must be exceeded within five days to trigger an alert
- Establishes the frequency with which the % price movement threshold must be exceeded within five days to trigger an alert
- Establishes the frequency with which the % price movement threshold must be exceeded within thirty days to trigger an alert
- Establishes the number of standard deviations from the 1 month mean volume must diverge to trigger an alert
- Establishes the number of standard deviations from the 3 month mean volume must diverge to trigger an alert
- Establishes the number of standard deviations from the 12 month mean volume must diverge to trigger an alert
- Establishes the number of standard deviations from the 1 month mean turnover must diverge to trigger an alert
- Establishes the number of standard deviations from the 3 month mean turnover must diverge to trigger an alert
- Establishes the number of standard deviations from the 12 month mean turnover must diverge to trigger an alert

Alert Summary

	Price Movement Alert	CP Limit Movement Alert	Volume Surge Alert	Turnover Surge Alert	News Alert
Company 1					
Company 2					
Company 3					
Company 4					
Company 5					
Company 6					
Company 7					
Company 8					
Company 9					
Company 10					
Company 11					
Company 12					
Company 13					
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Company 17					
Company 18					
Company 19					
Company 20					

### Alert Details

[illegible]

## Dashboard

[illegible]

	09/29/05	09/28/05	09/27/05	09/26/05	09/25/05	09/24/05	09/23/05	09/22/05	09/21/05	09/20/05	09/19/05	09/18/05	09/17/05	09/16/05	09/15/05	09/14/05	09/13/05	09/12/05	09/11/05	09/10/05	09/09/05	09/08/05
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Industrial

Service

Banking

Insurance

Thinly traded

Actively traded